TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1896.

No. 179.

THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, APPELLANT,

vs.

WIRT ADAMS, STATE REVENUE AGENT, AND THE RAILROAD COMMISSION OF THE STATE OF MISSISSIPPI ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

FILED JUNE 2, 1896.

(17,494.)

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 320.

THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, APPELLANT,

vs.

WIRT ADAMS, STATE REVENUE AGENT, AND THE RAILROAD COMMISSION OF THE STATE OF MISSISSIPPI ET AL.

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1 *Caption of Minutes.*

May Term, 1899, First Day of May, 1899.

Be it remembered that a regular term of the United States circuit court for the southern district of Mississippi was begun and held at the court-room thereof, in the city of Jackson, on the first Monday of May, A. D. 1899, being the time and place for holding said court appointed by law.

There were present: Honorable H. C. Niles, judge; A. M. Lea, U. S. attorney; A. C. Melchior, ass't U. S. att'y; F. W. Collins, marshal; L. R. Moseley, clerk.

2 *Original Bill.*

THE BILL OF COMPLAINT OF THE YAZOO & MISSISSIPPI VALLEY Railroad Company, a Corporation of the State of Mississippi, a Citizen of said State and Domiciled Therein, and Resident in said State and District,

vs.

WIRT ADAMS, State Revenue Agent in and for the State of Mississippi, and W. S. Wissenger, Sheriff of De Soto County, and F. L. Hope, Sheriff of Tunica County, and F. B. Fitzgerald, Sheriff of Coahoma County, and R. M. Edwards, Sheriff of Bolivar County, and J. B. Hebron, Sheriff of Washington County, and C. H. Walton, Sheriff of Sharkey County, and R. W. Smith, Sheriff of Issaquena County, and Dan. B. Hebron, Sheriff of Warren County, and R. C. McCay, Sheriff of Claiborne County, and C. C. Coffey, Sheriff of Jefferson County, and J. R. Jones, Sheriff of Franklin County, and J. B. Turnipseed, Sheriff of Amite County, and J. M. Sessions, Sheriff of Wilkinson County, and J. H. Sullivan, Sheriff of Tallahatchie County, and J. B. Humphreys, Sheriff of Leflore County, and S. Duncan Baker, Sheriff of Adams County, and W. T. Ratliff, Sheriff of Hinds County.

To the honorable the judges of the circuit court of the United States in and for the southern district of Mississippi, sitting at Jackson, in said district, in equity:

I.

Humbly complaining showeth unto your honors that your orator, The Yazoo & Mississippi Valley Railroad Company, is a corporation of the State of Mississippi, chartered and organized under the laws thereof, domiciled within said State and resident within said State and the southern district thereof; and also that all of the counties above named are counties of and in said State of Mississippi, and all of the same lie within the said southern district, except the counties of De Soto, Tunica, Coahoma, Tallahatchie, and Leflore, which are in the northern district of said State; and that all of the defendants herein named as sheriffs of said counties are citizens of said State of

Mississippi and resident within the counties in and for which they are sheriffs as stated, being all of them resident in said south-
3 ern district, except the said sheriffs of De Soto, Tunica, Coahoma and Leflore counties, who are resident in the northern district of said State.

II.

Your orator further shows that by an act, approved July 20th, 1870, the legislature of the said State of Mississippi incorporated the Mobile & Northwestern Railroad Company, and that section 21 of the charter thereof was in words and figures as follows, to wit:

"SECTION 21. Be it further enacted, That in consideration of the construction of the railroads provided for herein, and of the great benefit which the State will receive in the development of its agricultural resources by means of said railroads as works of internal improvement, and also of the increased value which will thereby be added to the property of the State, thus enabling the State to greatly increase its revenue without additional burdensome taxation upon the people, the State hereby agrees with said company (and which agreement is irrepealable), that all taxes to which said company shall be subject for the period of thirty years, are hereby appropriated and set apart, and shall be applied to the payment of the debts and liabilities which the said company may have incurred in the construction of said road, or for money borrowed by said company upon lands or otherwise, to be used in constructing said road, or paying debts incurred by said company in constructing the same; and it shall be the duty of the tax collector in every county in each and every year, to give to said company a receipt in full for the amount of said taxes, upon receiving from the said company an affidavit made by the president or cashier of said company, that the amount of said taxes have actually and in good faith been paid and applied by said company during the year, in payment of the debts incurred, or money borrowed as aforesaid, and which receipt so given shall be in full of all taxes, county, State and municipal to which company shall be subject; provided, however, that whenever the profits of said company shall enable said company to declare and pay to the stockholders an annual dividend of eight per cent. upon its capital stock over and above the payment of its debts and liabilities, then the appropriation of the taxes aforesaid shall cease, and said taxes shall be paid by said company to the tax collector to be by him paid over as required by law."

III.

Your orator further shows that the said legislature of the said State, by another act entitled, "An act to incorporate the Natchez &
4 Jackson Railroad Company," approved July 21st, 1870, did incorporate the railroad company of that name, with authority to build a line of railroad from Natchez to Jackson, in the State of Mississippi; and the charter of said railroad company was subsequently amended so as to change the name thereof to the "Natchez, Jackson & Columbus Railroad Company."

IV.

Your orator further states that by another act, approved August 8th, 1870, entitled "An act supplemental to the acts of incorporation of certain railroad companies," the said legislature of said State, extended the privilege of section 21 of the Mobile & Northwestern charter to various railroad companies named in said act, and amongst others, to the Natchez & Jackson railroad.

V.

Your orator further states that the said Natchez & Jackson Railroad Company did accept their said charter from said State, including the provisions of the said section 21 of the Mobile & Northwestern Railroad Company'- charter so extended to it as aforesaid, and organized under the same, and proceeding, after some delay, but yet in due course, did build and construct and proceed to operate and maintain the said line of railroad from Natchez to Jackson in said State as aforesaid, relying upon said charter, including the said provisions of section 21; and did in the construction of said railroad, expend various large sums of money to an enormous aggregate, and did incur a large construction debt evidenced by bonds of the said company to the amount of $1,250,000.00.

VI.

Your orator further states that the said provisions of section 21 so extended to the said Natchez & Jackson Railroad Company, and accepted by it and acted by it as aforesaid, did constitute a contract between the said company and the State of Mississippi, irrepealable in the period during which, by the terms of said section, the application was to last, that is to say, irrepealable for the period of thirty years from the said 8th day of August, 1870. Said contract was a contract of appropriation, as appears on the face of said section, and by its terms, whereby the legislature in consideration of the construction of the said railroad, did appropriate and set apart all taxes to which the said company should be liable or subject, for the period of thirty years, including both privilege and ad valorem taxes to be applied to the payment of debts and liabilities which the said company should incur in the construction of said road, or for the payment of money borrowed by said company, upon lands or otherwise, to be used in constructing said road, or for the payments of debts incurred, or for the payment of money borrowed by the company to pay debts incurred by the same in constructing the said road (for any of said purposes); and it was made the duty of the tax collector in every county in which, or through which the said road was constructed and should become taxable, in each and every year, to give the company a receipt in full for the amount of said taxes, upon receiving from the said company affidavit made by the president or cashier thereof, that the amount of said taxes had actually and in good faith been paid and applied by said company during such year in payment of the debts or liabilities aforesaid, which receipt so given was to be in

full discharge of all State and municipal taxes, privilege or ad valorem, to which said company should be subject during the period aforesaid. In short, the said provisions of section 21 constituted, and were a special and peculiar method of granting aid by the State to the construction of the railroad contemplated in said charter, whereby a sum of money was contributed by the State to the said company, in aid, equal to the entire taxes assessed against such company during each said year, and the company was absolved from the useless formality of paying the taxes lawfully assessed against the same into the respective State, county, and municipal treasuries, and then drawing from the said treasuries, in the usual manner prescribed by law, a sum equal to the aggregate of such payments; but in lieu of such troublesome and unnecessary detail, it was by the said act provided and contracted that the sheriffs of the respective counties in their capacity of tax collector, should give, on the presentation of the proper affidavits, receipts in full against such taxes.

VII.

Your orator states further, that by an act entitled "An act to incorporate the Memphis & Vicksburg Railroad Company," approved Aug. 8th, 1870, the said legislature of said State did incorporate the Memphis & Vicksburg Railroad Company, authorizing the same to build and operate a line of railroad from Vicksburg, in the county of Warren, in said State, northerly to the Tennessee line in the direction of Memphis, in the State of Tennessee; and by still another act, entitled "An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley & Ship Island Railroad Company to effect a consolidation," approved March 3d, 1882, it was provided that the two companies named in the title to said act might consolidate with each other, and with any other railroad companies incorporated by the said State or any other State, and form thereby a railroad company which should be a Mississippi corporation, and should enjoy all the rights, privileges, immunities, franchises, etc., of the constituent companies. The said act of March 3d, 1882, was amended by an act of the said legislature of March, 1884, entitled, "An act to amend an act entitled 'An act to authorize the Memphis & Vicksburg Railroad Company, and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation,'" approved March 3d, 1882, by which amendatory act it was provided that the company contemplated to be formed by the said act of March 3d, 1882, might be formed by consolidation between the Memphis & Vicksburg Railroad Company, and any other railroad company or companies incorporated by this State or by any other State, and being so formed, should be entitled to all the rights, privileges, franchises, immunities, etc., stipulated for and conced*ing* in said act of March 3, 1882: by which amendment the necessity for the entrance into said consolidated company of the Mississippi Valley & Ship Island railroad as a constituent part thereof was dispensed with.

6

VIII.

Your orator states that section 5 of said act of March 3d, 1882, was in words and figures as follows, to wit:

"SEC. 5. Be it further enacted: That the provisions of the twenty-first section of an act entitled 'An act to incorporate the Mobile & Northwestern railroad,' approved July 20, 1870, is hereby made to apply to the said consolidated company, and for that purpose the said section is hereby declared to be a part of this act, and this section shall be construed as though the said twenty-first section was specially and fully set out herein; but this section shall not be in force for a longer time than twenty-five years from the approval of this act."

IX.

Your orator states that under and by virtue of the said act of March 3d, 1882, and amendatory act of March, 1884, a certain railroad company was constituted and organized by the consolidation of the said Memphis & Vicksburg Railroad Company with the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company which had also been incorporated by the legislature of the State of Mississippi in the year 1882, with a Louisiana railroad company, and also with a Tennessee railroad company, the object of such consolidated railroad company being the construction of a through line of railroad from the city of Memphis, in the State of Tennessee, to the city of New Orleans, in the State of Louisiana, by way of Vicksburg, in the State of Mississippi. The said railroad company so formed, adopted the name of the "Louisville, New Orleans
7 and Texas Railway Company," and proceeding under the charters of its constituent companies under the act of March 3d, 1882, and the said amendatory act of March, 1884, it speedily constructed the railroad contemplated, so that the said railroad was so far complete as that the through connection between its various working gangs was made, and the first train ran on or about the first of October, 1884.

The said "Louisville, New Orleans and Texas Railway Company" was organized, relying upon the said charter provisions of the act of March 3d, 1882, and constructed its railroad as aforesaid upon the faith thereof, including the provisions of the said 21st section of the Mobile & Northwestern Railroad charter so extended to it by section 5 of the said act of 1884, March 3d. The said section 5 of the said act of 1882 did constitute a contract between the said State of Mississippi and the Louisville, New Orleans & Texas Railway Company, of the same scope and import as herein already stated in connection with the Natchez & Jackson railroad, — are hereby reiterated as to the effect and nature of such contract as between the said State and the said Louisville, New Orleans & Texas Railway Company.

X.

Your orator further shows that in the year 1890, the legislature of the State of Mississippi passed an act entitled "An act to authorize the Natchez, Jackson & Columbus Railroad Company to sell its rail-

road situate in this State or to consolidate the same," which was approved February 19, 1890. By said act, the said Natchez, Jackson & Columbus Railroad Company was authorized and empowered to sell absolutely all or any part of its railroad and other property lying and being and situated in the State of Mississippi, together with all franchises, rights, powers, priviliges and immunities unto the said Natchez, Jackson & Columbus Railroad Company appertaining and belonging.

Under and pursuant to the said act of 1890 the said Natchez, Jackson & Columbus Railroad Company, did in the month of March, 1890, sell and convey to the said Louisville, New Orleans & Texas Railway Company for the sum of $180,000, in cash, the said railroad so by it constructed and operated from Natchez to Jackson, together with all the said franchises, rights, powers, privileges and immunities: such sale being subject to the outstanding mortgage construction debt aforesaid, amounting to $1,250,000.00, of six per cent. bonds. A copy of the conveyances of the said Natchez, Jackson & Columbus Railroad Company to the said Louisville, New Orleans & Texas Railway Company is herewith filed and marked "Ex-
8 hibit A," and prayed to be taken as a part of this bill. The said Louisville, New Orleans & Texas Railway Company, pursuant to its said agreement of purchase, did afterwards purchase from the holders thereof, the said $1,250,000.00 of outstanding bonds of the said Natchez, Jackson & Columbus Railroad Company, paying therefor $890,000 of its own first-mortgage four per cent. gold bonds, payable to bearer in the city of New York, which did constitute a mortgage on its entire line of railroad, from Memphis to New Orleans; the said $1,250,000.00 of outstanding bonds of the said Natchez, Jackson & Columbus Railroad Company so purchased not being cancelled by said purchase, but being, pursuant to its contract and agreement, placed in trust as collateral security for the payment of the coupons and principal of the entire issue of the first-mortgage bonds and of the second mortgage bonds of the said Louisville, New Orleans & Texas Railway Company: such method being adopted in order to give the holders of the Louisville, New Orleans and Texas Railway bonds a mortgage and lien upon the property of the Natchez, Jackson & Columbus Railroad Company as security for their holdings, said property having been acquired and purchased in large part, as stated above, by the issuance of bonds of the Louisville, New Orleans & Texas Railway Company.

XI.

Your orator further states that by an act entitled "An act incorporating the Yazoo & Mississippi Valley Railroad Company and declaring its powers," approved February 17, 1882, the said legislature of the State of Mississippi did incorporate your orator as a Mississippi corporation; and that on the 24th day of October, 1892, the said Louisville, New Orleans & Texas Railway Company and your orator, pursuant to authorities conferred upon them by their respective charters, hereinbefore stated, effected a consolidation whereby the existence of the Louisville, New Orleans & Texas Rail-

way Company was merged into that of the Yazoo & Mississippi Valley Railroad Company, and all of the property, real and personal, and all of the rights, franchises, privileges and immunities of the said Louisville, New Orleans & Texas Railway Company, including as part thereof all the property, real and personal, all of the rights, franchises, privileges and immunities that had been of the Natchez, Jackson & Columbus Railroad Company were transferred to and became the property, rights, privileges, franchises and immunities of your orator.

Amongst the rights, franchises, privileges and immunities aforesaid so vested in your orator by such consolidation, were the contract rights aforesaid, originally of the Natchez, Jackson & Columbus Railroad Company, under and by virtue of the said section
9 21 of the Mobile & Northwestern charter in respect to taxes, and the appropriation of an amount equal thereto by the said State of Mississippi, assessed against the property that had been property of the Natchez, Jackson & Columbus Railroad Company; and were also the rights thereto of the Louisville, New Orleans & Texas Railway Company. And amongst the rights, franchises, privileges and immunities aforesaid so vested in your orator by such consolidation, were the contract rights aforesaid originally of the Louisville, New Orleans & Texas Railway Company, under and by virtue of the said section 21 aforesaid of the Mobile & Northwestern charter, in respect to taxes and the appropriation of an amount equal thereto by the said State of Mississippi, assessed against the property that had been the property of the Louisville, New Orleans & Texas Railway Company.

And your orator, from the date of such consolidation, until this day, has, by virtue of the contracts hereinbefore set forth, been entitled to the full exercise and enjoyment of the rights aforesaid by the legislation aforesaid contracted and conferred.

XII.

Your orator now shows that in the year 1898, proceeding under the provisions of the revenue chapter of the Annotated Code of 1892, and the laws amendatory thereof, the State railroad commission, as assessors of railway property, did assess for taxation the property aforesaid, being property that was originally of the Natchez, Jackson & Columbus Railroad Company, and also property that was originally of the Louisville, New Orleans & Texas Railway Company as aforesaid, and did fix the amount of privilege taxes due and payable to the State on account of ownership by your orator of such respective railroad properties, and the operation of the same.

And your orator avers that under its contract right as aforesaid, derived as aforesaid, it had the right to discharge and pay off said taxes, both ad valorem and privilege, so ascertained and fixed, by paying during the current year a sum of money on account of the construction debt of the Natchez & Jackson railroad, equal to the taxes assessed on account thereof, and by tendering to the various sheriffs of the respective counties charged by law with the duty of collecting taxes in and for those counties, the affidavits prescribed

and required by the said section 21, extended to the Natchez & Jackson Railroad Company and to the Louisville, New Orleans & Texas Railway Company as aforesaid.

XIII.

Your orator further avers that during the year 1898, it has extinguished and paid construction debt within the scope and meaning of the said statute, of the railroad from Natchez to Jackson as aforesaid to an amount equal to the amount of taxes, both ad valorem and privilege, so assessed against it on account of its ownership of such property, in full and exact conformity with the provisions of said statute, and it has tendered to the respective sheriffs aforesaid, the statutory affidavits prescribed and required in respect to its enjoinment of such contract under said statute as the owner of the property last aforesaid.

XIV.

Your orator further avers that during the year 1898 it has extinguished and paid construction debt within the meaning and scope of the said statute, of the railroad that was the property of the Louisville, New Orleans & Texas Railway Company as aforesaid, an amount equal to the amount of taxes, both ad valorem and privilege, so assessed against it on account of its ownership of said property, in full and exact conformity with the provisions of said statute, and it has tendered to the respective sheriffs aforesaid, the statutory affidavits prescribed and required in respect to its enjoyment of such contract right under said statute as the owner of the property last aforesaid.

XV.

Your orator now avers, that disregarding the contract rights as aforesaid of your orator in the premises, and repudiating the same, the said sheriffs of the said counties respectively, have refused to accept the said affidavits and to give to your orator the receipts provided for in said statutes, and insist that your orator shall pay off such taxes so assessed in currency ; and this defendant, the Hon. Wirt Adams, State revenue agent, also disregarding the said contract rights of your orator and repudiating same, threatens to sue in his capacity as State revenue agent to collect the said taxes in currency, the object and intent of said collecting agents and officers of the State of Mississippi being to deny your orator's rights in the premises as hereinbefore set out, and thereby to deny your orator the benefit of the appropriation heretofore made of such taxes towards the liquidation and discharge of the construction debt of the two railroad properties respectively as contracted for, and to force the payment of all such taxes so assessed in currency, whereby your orator shall finally lose the same.

XVI.

Your orator is a tax-payer of the State of Mississippi and a tax-payer of the various counties hereinbefore named of said State

within the contemplation and meaning of the statute of the State of Mississippi which authorizes the injunction of attempts to
11 collect taxes not authorized by law. And your orator avers that it is informed, and it so states, that the said sheriffs as tax collectors have the power to force the payment of said taxes by seizure of the property of your orator, in the manner prescribed by law, if the same be not paid by your orator pursuant to their claims and demands, and that they will seize the same in order to enforce the demands, and your orator is thereupon and thereby threatened with a multiplicity of suits and seizures, including the threatened suit of the State revenue agent, brought for the purpose of unlawfully forcing the payment of said taxes in currency, contrary to your said orator's contract rights.

XVII.

Your orator further states that under and by virtue of the laws of the State of Mississippi, said assessments of taxes when made do constitute a lien upon the railroad property of your orator aforesaid in said State, preferential in law to all mortgages and other liabilities, and do cast a cloud upon the title of your orator, to said property, to the great injury of your orator, and to the injury of the holders of your orator's mortgage bonds; that such lien so imposed has been, in law and equity, by the payments made by your orator on account of construction debt as aforesaid, by the tender of the said affidavits as aforesaid, satisfied and discharged in full, but that the claim of the said sheriffs as tax collectors and of the said State revenue agent, as the fiscal officers of the State and the various counties and municipalities therein, do constitute a continuing cloud upon your orator's title to said property, contrary to good faith and equity, which should be extinguished and removed.

XVIII.

Your orator further shows that it cannot even pay these taxes under protest and sue to recover them back without being subjected to the burden of a multiplicity of suits as aforesaid; furthermore, that even if your orator were to pay the same under protest and sue to recover the same back and should recover judgment for the same after undergoing the burden of such multiplicity of litigation, because of the peculiar constitution of municipalities and counties, it is quite doubtful if the judgments recovered against them could ever practically realize a return of the said taxes, or realize such a return without a very great reduction in the practical results because of costs and expenses; and so far as such a suit against the State of Mississippi is concerned, a judgment against said State would doubtless be worthless and of no value, since an execution cannot be had against the same in any form, and it would
12 be purely and wholly optional with the legislature whether it would or would not ever pass a bill of appropriation to return such moneys.

Wherefore, your orator is, and would be without any effectual remedy at law, and is relievable only in the courts of equity.

XIX.

Your orator states that the amount of taxes so unlawfully demanded from your orator on account of its ownership of such property is not exactly known to your orator, but it exceeds the sum of $100,000, computing both ad valorem and privilege taxes, and it exceeds the sum of $2,000 in each of said counties hereinbefore named, because of taxes ad valorem and privilege assessed and payable against, and because of your orator's ownership of such property and the operation of its railroad in each of said counties.

XX.

Your orator now avers that the said demands of the said defendants and their threatened action in the prosecution thereof are asserted under and are taken under the revenue laws of the State of Mississippi, passed by the legislature of said State in the Annotated Code, and of various acts amendatory thereof at subsequent sessions of the legislature, and the act of 1894, defining the office and powers of the State revenue agent, all of which were enacted and passed subsequent to the acts hereinbefore cited as investing your orator and the said Natchez, Jackson & Columbus Railroad Company and the said Louisville, New Orleans & Texas Railway Company with their rights in the premises as aforesaid, and such demands and such threatened action on the part of the defendants herein are in contravention of the said contract rights of your orator, and in violation of section 10, art. 1 of the Constitution of the United States, which forbids any State to pass any law impairing the obligation of a contract.

XXI.

Your orator charges that the said defendants pretend that the said acts of 1870 and 1882 and 1884, in and so far as they conferred the rights hereinbefore detailed upon the said Natchez, Jackson & Columbus Railroad Company, and the said Louisville, New Orleans & Texas Railway Company, and your orator, were repealed by the revenue laws of 1886; and also that if not repealed by the revenue laws of 1886, they were repealed by the provisions in respect to the revenue, of the Annotated Code of 1892,—all of which your orator denies, and states that the said acts of the legislature of the State of Mississippi in undertaking to repeal the same, if
13 they do so undertake, are violative as aforesaid of the said section 10, art. 1 of the Constitution of the United States, forbidding any State to pass any law impairing the obligation of a contract.

XXII.

The said defendants, your orator charges, also pretend that the contract rights hereinbefore detailed, were waived and lost by the consolidation hereinbefore mentioned which took place on the 24th day of October, 1892, between the Louisville, New Orleans & Texas Railway Company and your orator. But this pretense also your orator denies, and avers that about the month of January, 1893, one

Lambert, who was then sheriff and tax collector in and for the county of Adams, aforesaid, undertook to collect from your orator, States and county taxes on the property of your orator in Adams county, which had formerly been property of the Natchez, Jackson & Columbus Railroad Company, by proceeding under the statute of the State then existing. And your orator in conjunction with the said Natchez, Jackson & Columbus Railroad Company, did file their two bills of injunction against the said Lambert to enjoin the collection of said taxes, one bill being to enjoin the collection of ad valorem taxes for the years 1891 and 1892, and the other bill being to enjoin the collection of privilege taxes for the said years. The said Lambert resisted the said bills of injunction, acting in his capacity as sheriff and tax collector of said county charged with the duty of collecting both State and county taxes, and the chancellor dismissed the said bills of injunction, from which decree of dismissal your orator and the said Natchez, Jackson & Columbus Railroad Company appealed to the supreme court of the State of Mississippi, upon which appeal, the supreme court did reverse the decision of the chancellor in the court below and sustain the right of your orator to the continued enjoyment of the provisions of said section 21, of the Mobile & Northwestern Railroad charter as extended to the Natchez, Jackson & Columbus Railroad Company, notwithstanding such consolidation of October 24th, 1892.

Your orator further states that the effect of such consolidation was fully presented and was controverted, and it was urged upon the said supreme court by the honorable attorney general of the State, and the said supreme court did expressly adjudicate and pass upon the same, and held that the effect of such consolidation was not to create a new company, and was not to bring the property of your orator subject to the revenue provision embodied in section 180 and 181 of the constitution of 1890, but that the same did operate as a mere merger, whereby the existence of the Louisville, New Orleans & Texas Railway Company was merged into that of your orator, while the existence of your orator continued unbroken,
14 and no new company was formed. And your orator hereby sets up and pleads sueh decision as *res adjudicata* in its favor as to the effect and operation of such consolidation, the same having been expressly controverted and decided in the said Lambert case, in a suit to which your orator was a party on the one side, and to which an officer of the State, lawfully authorized to collect taxes, and representing the State, was a party on the other.

XXIII.

Your orator further states that the said defendants pretend that the said rights hereinbefore set forth of your orator, derived as aforesaid from the said Louisville, New Orleans & Texas Railway Company were lost by the consolidation of October 24th, 1892, because of the operation of sections 180 and 181 of the constitution of the State of Mississippi, promulgated November 1st, 1890; and this your orator denies, and avers that the said constitution of the State of Mississippi, being adopted since the said contract rights

were vested as aforesaid in those companies from which your orator derived the same, were protected by the section 10, act. 1 of the Constitution of the United States, and could not be impaired by the said constitution of November 1st, 1890, of the State of Mississippi, and your orator invokes the protection and benefit in this case of the said section 10, art. 1 of the Constitution of the United States.

XXIV.

In order that this controversy may be narrowed to its true dimensions, your orator states further herein that it does not claim, and has never claimed that the contract rights hereinbefore set forth applied to such parts of the railroad of your orator as were assessed by the board of railroad assessors under the following descriptions:

1st. It does not apply to the assessments made against the Helena branch.

2nd. It does not apply to the assessments made against that portion of the Riverside division denominated, "the special charter."

3rd. It does not apply to that portion know as the "Bayou Sara branch."

On these three pieces of your orator's road, since they were not constructed either by the Natchez, Jackson & Columbus Railroad Company, nor under the charter of the Louisville, New Orleans & Texas Railway Company, your orator has always admitted its liability to pay taxes assessed against the same in the ordinary manner, and has claimed no benefit of its contract as hereinbefore set forth, in respect to them.

15 Your orator further states that it has paid such taxes in currency for this year, and your orator does not understand that there is any controversy over these facts between the defendants and itself in respect to those three portions, or subdivisions or branches of its road, and it is not intended by this bill to seek any protection in respect to them.

XXV.

The premises considered, and that justice may be done, your orator prays that the writ of subpœna may issue for the said defendants, to wit: Wirt Adams, State revenue agent, in and for the State of Mississippi; and W. S. Wissenger, sheriff of De Soto county, and F. L. Hope, sheriff of Tunica county, and F. B. Fitzgerald, sheriff of Coahoma county; and R. M. Edwards, sheriff of Bolivar county; and J. B. Hebron, sheriff of Washington county; and C. H. Walton, sheriff of Sharkey county; and R. W. Smith, sheriff of Issaquena county; and Dan. B. Hebron, sheriff of Warren county; and R. C. McCay, sheriff of Claiborne county; and C. C. Coffey, sheriff of Jefferson county; and J. R. Jones, sheriff of Franklin county; and J. B. Turnipseed, sheriff of Amite county; and J. M. Sessions, sheriff of Wilkinson county; and J. H. Sullivan, sheriff of Tallahatchie county; and J. B. Humphreys, sheriff of Le Flore county; and S. Duncan Baker, sheriff of Adams county; and W. T. Ratliff,

sheriff of Hinds county; and that the said defendants may be required to answer this bill fully and at large as if thereunto specifically interrogated, their oaths to such answer being, however, hereby expressly waived.

Your orator prays that pending this litigation, your honors will issue a writ of injunction, and that on final hearing your honors will issue a perpetual injunction to the effect following, to wit:

That the said defendants be and they are enjoined from bringing any suits against your orator for the recovery of said taxes, or seizing your orator's property under any distress warrants otherwise, or taking any steps or proceedings whatever for the collection and recovery of such taxes; and that on final hearing, your honors will further adjudge and decree that by the payment of the construction debts as aforesaid, and the tender of affidavits as aforesaid, the liability of your orator and of your orator's property for taxes as afroesaid, has been fully met and discharged, and that the assessment so made, and the levies made pursuant thereto, shall be satisfied in full, and all clouds following or arising therefrom be removed from the title of your orator to its property as aforesaid, and for such other, further and general relief as to your honors may seem proper and meet.

16 And your orator as in duty bound will ever pray.

MAYES & HARRIS,
Solicitors for Complainant.

Personally appeared before me, Geo. R. Gordin, who being by me duly sworn, on oath says that he is the agent of the Yazoo & Mississippi Valley railroad, and that the averments of the foregoing bill, such as are made on information and belief, he believes to be true, and such as are made on information and knowledge are true.

G. R. GORDIN,
Ag't Y. & M. V. R'y Co.

Sworn to and subscribed before me this 16th day of December, 1898.

F. B. NEAL,
[SEAL.] *Clerk of the Circuit Court of Hinds County, Mississippi, and ex Officio Notary Public.*

[5 2c. U. S. documentary stamps.]

Filed Dec. 26, 1898.

L. B. MOSELEY, *Clerk.*

EXHIBIT TO BILL.

This indenture, made and entered into this 28th day of March, 1890, by and between the Natchez, Jackson & Columbus Railroad Company of the first part, and the Louisville, New Orleans and Texas Railway Company, of the second part—witnesseth:

That the party of the first part, in consideration of the sum of one hundred and eighty thousand dollars, lawful money of the

United States, to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, assigned, transferred and conveyed, and hereby grants, bargains, sells, assigns, transfers and conveys unto the party of the second part, its successors and assigns forever, all the railroad and other property of the party of the first part lying, being and situated in the State of Mississippi, together with all franchises, rights, powers, privileges and immunities unto the said party of the first part appertaining or belonging.

To have and to hold to the said party of the second part, its successors and assigns forever, subject, however, to the existing mortgage from the said party of the first part to the Farmers' Loan and Trust Company, trustee, dated September 1st, 1882, securing outstanding bonds of the party of the first part, to the amount of their par or face value of not exceeding one million two hundred and fifty thousand dollars, and subject to the current interest thereon.

And in consideration of the premises, the party of the first part has undertaken, covenanted and agreed and hereby undertakes, coven- and agrees to and with the party of the second part to provi- or the interest which matured on or prior to March 1, 1890, on bonds secured by the mortgage above referred to, 17 and to provide for the payment of all other unpaid indebtedness and obligations of the party of the first part accruing from and after May 1st, 1889.

In witness whereof, the party of the first part has caused these presents to be executed on its behalf by its president and its corporate seal to be hereunto affixed and attested by its secretary, the day and year first above written.

NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY,
By T. J. NEWMAN, *President.*
[SEAL.] JOS. T. PENTON, *Secretary.*

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me, J. Chas. Carson, a justice of the peace, and *ex officio* notary public, in and for the county and State aforesaid, the within-named J. T. Nicholl and Jos. T. Penton, who being by me duly sworn, deposed, say and acknowledge that they signed, sealed and delivered the foregoing deed on the day and year therein named, as the act and deed of the Natchez, Jackson & Columbus Railroad Company, and the said T. J. Nicholl deposing and acknowledging that he signed and delivered the said deed as president of said company, and the said Jos. T. Penton deposing and acknowledging that he signed said deed and affixed the corporate seal of said company to said deed by authority of a resolution of the board of directors of said company, and as the secretary of said company, and the said T. J. Nicholl and Jos. T. Penton further depose, say and acknowledge that they know the corporate seal of said Natchez, Jackson & Columbus Railroad Company, and that

the seal so affixed to said deed is the seal of said Natchez, Jackson and Columbus Railroad Company, and was so affixed by the order of the board of directors of said company.

In witness whereof, I have hereunto set my hand and affixed my official seal, this 28th day of March, A. D. 1890.

J. CHAS. CARSON,
J. P. and ex Officio Notary Public.

Fiat for Injunction.

No. 561.

18 The clerk of the circuit court, southern district Mississippi, will, upon the complainants herein entering into bond with sureties to be approved by him in the sum of five hundred dollars, conditioned and payable according to law, issue an order addressed to the defendants herein, and each of them, restraining them from further proceeding to collect taxes mentioned in the bill of complaint of the complainant herein, either by suit or otherwise, or proceeding against the property of said complainant by suit, seizure or distress, or otherwise, and commanding and directing the said defendants to appear at the city of Jackson on the 3rd Monday in January, 1899, to then and there show cause, if they have any, why a perpetual injunction shall not be granted against them as prayed herein.

December 17, 1898.

H. C. NILES, *Judge.*

Know all men by these presents, that we, The Yazoo & Mississippi Valley Railroad Company, as principal, and R. W. Millsaps and John Hart, as sureties, do hereby acknowledge to owe unto Wirt Adams, State revenue agent in and for the State of Mississippi, and W. S. Wissenger, sheriff of De Soto county, Mississippi; and F. L. Hope, sheriff of Tunica county, Mississippi; and F. B. Fitzgerald, sheriff of Coahoma county, Mississippi; and R. M. Edwards, sheriff of Bolivar county, Mississippi; and J. B. Hebron, sheriff of Washington county, Mississippi; and R. C. McKay, sheriff of Claiborne county, Mississippi; and J. R. Jones, sheriff of Franklin county, Mississippi; and J. B. Turnipseed, sheriff of Amite county, Mississippi; and J. M. Sessions, sheriff of Wilkinson county, Mississippi; and J. H. Sullivan, sheriff of Tallahatchie county, Mississippi; and J. B. Humphreys, sheriff of Leflore county, Mississippi; and S. Duncan Baker, sheriff of Adams county, Mississippi; and W. T. Ratliff, sheriff of Hinds county, Mississippi, the sum of five hundred dollars, for the payment of which well and truly to be made, we do hereby bind ourselves, our successors, our heirs, administrators and assigns.

Witness our signatures, this the 26th day of December, 1898.

The condition of the above obligation is such that, whereas the principal above named has filed its bill in the United States circuit court in and for the southern district of Mississippi sitting at Jackson, to enjoin the obligees above named from prosecuting any suits

or levying any distress warrants, or taking any other steps to enforce the collection of certain taxes assessed by the State railroad assessors, and levied thereupon by the State and the counties aforesaid against the said principal, all of which is more fully set forth in the said bill of complaint.

19 And whereas a restraining order has been granted by the Hon. Henry C. Niles, judge of the district court.

Now, therefore, if the said railroad company above named shall pay all costs of said injunction and in all other respects discharge and satisfy in full such judgment as the court shall pronounce therein, in the event that the said injunction shall be dissolved, then this obligation to be void and of no effect. Otherwise to remain in full force and effect.

THE YAZOO & MISSISSIPPI
VALLEY R. R. CO.,
By MAYES & HARRIS, *Its Att'ys.*
R. W. MILLSAPS.
JOHN HART.

I hereby approve the foregoing bond, this 30 Dec'r, 1898.
L. B. MOSELEY, *Clerk.*

UNITED STATES OF AMERICA, }
Southern District of Mississippi. }

In the Circuit Court of the United States for said District. In Chancery.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY }
vs.
WIRT ADAMS, State Revenue Agent, ET AL. }

To Wirt Adams, State revenue agent for Mississippi; and W. S. Wissenger, sheriff of De Soto county, Mississippi; and F. L. Hope, sheriff of Tunica county, Miss.; and F. B. Fitzgerald, sheriff of Coahoma county, Miss.; and R. M. Edwards, sheriff of Bolivar county, Miss.; and J. B. Hebron, sheriff of Washington county, Miss.; and C. R. Walton, sheriff of Sharkey county, Miss.; and R. C. McKay, sheriff of Claiborne county, Miss.; and C. C. Coffee, sheriff of Jefferson county, Miss.; and J. R. Jones, sheriff of Franklin county, Miss.; and R. W. Smith, sheriff of Issaquena county, Miss.; and J. B. Turnipseed, sheriff of Amite county, Miss.; and J. M. Sessions, sheriff of Wilkinson county, Miss.; and J. H. Sullivan, sheriff of Tallahatchie county, Miss.; and Dan. B. Hebron, sheriff of Warren county, Miss.; and J. B. Humphreys, sheriff of Leflore county, Miss.; and S. Duncan Baker, sheriff of Adams county, Miss.; and W. T. Ratliff, sheriff of Hinds county, Mississippi—these:

Whereas it has been representad to us, in our circuit court of the United States for the southern district of Mississippi, sitting at Jackson, Mississippi, on the part of the Yazoo & Missis-

20 sippi Valley Railroad Company, complainants, that it has lately exhibited its bill of complaint in our said circuit court

for the district aforesaid against you the said Wirt Adams, State revenue agent for Mississippi, and the foregoing-named sheriffs of the counties of Mississippi hereinabove named, defendants to be relieved touching the matters therein complained of; in which bill it is stated among other things, that you with others are about to take measures and steps to the great injury of the said complainant touching matters set forth in the said bill, and that your actions and doings in the premises are contrary to equity and good conscience; we, therefore, in consideration thereof, and of particular matters in the said bill set forth, do strictly command and enjoin you and each of you the said Wirt Adams, State revenue agent, and S. Wissenger, sheriff of De Soto county, Miss.; and F. L. Hope, sheriff of Tunica county, Miss.; and F. B. Fitzgerald, sheriff of Coahoma county, Miss.; and R. M. Edwards, sheriff of Bolivar county, Miss.; and J. B. Hebron, sheriff of Washington county, Miss.; and C. H. Walton, sheriff of Sharkey county, Miss.; and R. W. Smith, sheriff of Issaquena county, Miss.; and Dan B. Hebron, sheriff of Warren county, Miss.; and R. C. McKay, sheriff of Claiborne county, Miss.; and C. C. Coffee, sheriff of Jefferson county, Miss.; and J. R. Jones, sheriff of Franklin county, Miss.; and J. B. Turnipseed, —, and J. M. Sessions, sheriff of Wilkinson county, Miss.; and J. H. Sullivan, sheriff of Tallahatchie county, Miss.; and J. B. Humphreys, sheriff of Leflore county, Miss.; and S. Duncan Baker, sheriff of Adams county, Miss.; and W. T. Ratliff, sheriff of Hinds county, Mississippi; each and every of you under the pains and penalties which may fall upon you or all of you in case of disobedience, that you do absolutely desist and refrain, as follows:

That you and each of you desist and refrain from further proceedings to collect taxes mentioned in the bill of complaint of the complainants herein, either by suit or otherwise or proceedings against the property of said complainants by suit, or distress, or otherwise until the further orders of said court.

And you are further commanded and directed to appear in the city of Jackson in the said district on the 3rd Monday in January, 1899, to then and there show cause, if any you have, why a perpetual injunction should not be granted against you as prayed in said bill of complaint.

Witness the Honorable M. W. Fuller, Chief Justice of the Supreme Court of the United States, and the seal of our said circuit court hereto affixed, at Jackson, in said district, this 26th day of December, 1898.

[SEAL.] L. B. MOSELEY, *Clerk.*

21 Executed the within process this day upon the defendants, Wirt Adams and W. T. Ratliff, in person by handing to each of them a true copy thereof this December 27, 1898.

Plaintiff's attorney advises that the other defendants will voluntarily enter their appearance in court.

F. W. COLLINS,
U. S. Marshal,
By R. O. EDWARDS, *Deputy.*

In the Circuit Court of the United States for the Southern District of Mississippi. In Equity.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD CO.
vs.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

Answer of Sheriff of Wilkinson County.

I, J. M. Sessions, sheriff and tax collector of said Wilkinson county, and one of the defendants in this suit, in answer to the bill, say that I have not seized or levied on, nor am I about to seize or levy on said railroad, or property for taxes, and have not given said railroad company or its agents or officials any reason to believe that I was, by threats or otherwise, and the application for an injunction against me in this case is unnecessary and uncalled for.

JAS. M. SESSIONS,
Sheriff and Tax Collector of Wilkinson County, Mississippi.

Filed Jan. 17, 1899.

L. B. MOSELEY, *Clerk.*

Motion to Discharge Restraining Order.

In the Circuit Court of the United States for the Southern District of Mississippi. In Equity.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY,
Plaintiff,
vs.
WIRT ADAMS, State Revenue Agent, ET AL., Defendant. } No. 561.

Now comes the defendants, Wirt Adams, State revenue agent of the State of Mississippi, and W. S. Wissenger, sheriff and tax collector of De Soto county, F. L. Hope, sheriff and tax collector of Tunica county, F. P. Fitzgerald, sheriff and tax collector of Coahoma county, R. M. Edwards, sheriff and tax collector of Bolivar county, C. H. Walron, sheriff and tax collector of Sharkey
22 county, R. M. Smith, sheriff and tax collector of Issaquena county, D. N. Hebron, sheriff and tax collector of Warren county, R. C. McCay, sheriff and tax collector of Claiborne county, C. C. Coffey, sheriff and tax collector of Jefferson county, J. P. Jones, sheriff and tax collector of Franklin county, J. B. Turnipseed, sheriff and tax collector of Amite county, J. M. Sessions, sheriff and tax collector of Wilkinson county, J. B. Humphries, sheriff and tax collector of Leflore county, J. H. Sullivan, sheriff and tax collector of Tallahatchie county, S. Duncan Baker, sheriff and tax collector of Adams county, and W. T. Ratliff, sheriff and tax collector of Hinds county, J. B. Hebron, sheriff and tax collector of Washington county, in said State, and on the disclaimers of said sheriffs and tax collectors herewith tendered on the face of the bill move

the court to discharge the restraining order heretofore granted and quash the restraining or injunction writs, and they object to the granting or issuance of any injunction against them or either of them, and said revenue agent further objects to the granting or issuance of any injunction in the case, because:

1st. On the disclaimers of the sheriffs and tax collectors hereto attached and herewith tendered the granting of an injunction would be unnecessary and improper.

2nd. The said revenue agent has no authority to distrain, levy on or sell anything, but only to sue in a court of competent jurisdiction for said taxes, and an injunction against him is a suit against the State of Mississippi, and forbidden by the 11th amendment to the Constitution of the United States.

3rd. This court has no jurisdiction.

4th. Plaintiff is not entitled to an injunction or any relief on the facts stated in its bill.

CRITZ, BECKET & KIMBROUGH,
CALHOUN & GREEN,
Solicitors for Defendants.

UNITED STATES OF AMERICA,
Southern District of Mississippi.

In the Circuit Court of the United States, Sitting at Jackson.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
vs.
WIRT ADAMS, State Revenue Agent, ET ALS.

Motion for Temporary Injunction.

23 The complainant in the above-entitled cause, The Yazoo & Mississippi Valley Railroad Company, moves the court to order the issuance of a temporary injunction until the final hearing and the further order of this court, as prayed for in the original bill.

MAYES & HARRIS,
Solicitors for Compl't.

Filed and entered January 18, 1899.

L. B. MOSELEY, *Clerk.*

Judge's Memorandum of Evidence.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
vs.
WIRT ADAMS, State Revenue Agent.

1. Miss. Valley Co. charter.
2. Copy record Mississippi Mills *vs.* Cook.
3. Record in Lambert case.
4. Certified copy of opinion of supreme court Nov. 22, '98.
5. Copy of opinion of June 20, 1898.

In the Circuit Court of the United States for the Southern District of Mississippi.

YAZOO & MISSISSIPPI VALLEY RAILROAD Company
vs.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561. In Equity.

Agreement of Counsel.

It is agreed:

1. That the hearing of the motions to discharge the restraining order, and for an injunction, was postponed from time to time by agreement, from September, 1898, to January, 1899; and that the case was heard on said motions notice being waived, in January, 1899, by agreement, and heard by agreement, together with the previous cases Nos. 559 and 560.

2. That in regard to the record in Miss. Mills *vs.* Cook, sheriff, that only the original bill need be copied in the transcript, and it is agreed that this bill was demurred to; the demurrer was sustained by the chancellor March 12th, 1878, and appeal to supreme court duly taken; and that the printed report of said cause in 56 Miss., p. 40, may be treated as the rest of said record; and that it was decided at April term, 1878, of said court.

24

3. That as to the record in The Natchez, Jackson & Columbus Railroad Company, *et al.*, *vs.* Lambert, sheriff, that only the original bill and the affidavits, Exhibits "D" and "E" thereto, and the demurrer thereto need be copied in the transcript, and that to said bill there was a plea of *res adjudicata*, supported by a record, wherein The L., N. O. & T. R. R. Co., as complainant, had sought to enjoin the said Lambert from subjecting its profits, acquired from N., J. & C. R. R. Co. to the payment of State and county taxes, upon substantially the same averments as in bill in N., J. & C. R. R. Co. *vs.* Lambert, *supra*, except that it was averred that the taxes had been paid for 1891 by affidavit of proper officers of the L., N. O. & T. R. R. Co., of application of the amount of said taxes on the debts of construction of said L., N. O. & T. R'y Co.; that the demurrer was sustained on March 23rd, by the chancellor, and the cause was duly appealed to the April term, 1893, returnable April 17, 1893, and was decided by the supreme court at said term on the — day of ——, 1893; and that the printed report of said case in 70th Miss., p. 779, may be treated as the rest of the said record.

4. That the certified copies of the decisions of the supreme court of Mississippi, rendered June 28th, 1898, and Nov. 22nd, 1898, in the case styled "Wirt Adams, State revenue agent, appellant, *vs.* Yazoo & Miss. Valley R. R. Co., *et al.*, appellees," need not be copied in the record, but may be used as published in the "Mississippi Decisions" and in connection with the briefs of counsel.

5. That only the answer of J. M. Sessions need be copied in the transcript; that each and every other tax collector made defendant to the bill filed an answer in the identical terms of said Sessions answer.

6. That only one restraining order need be copied, and that upon each of the other defendants identical re-training orders were duly served as that copied.

F. A. CRITZ AND
R. C. BECKETT,
S. S. CALHOUN AND
MARCELLUS GREEN,
Solicitors for Appellees.
EDWARD MAYES,
Attorney for Appellant.

25 S. B. No. 186.

An act to incorporate the Mississippi Valley Company.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That J. B. Fant, Thomas J. Malone, A. J. McConico, A. M. West, G. Burgland, R. P. Neiley and H. L. Duncan, and their associates, successors and assigns be and they are hereby incorporated under the name and style of the "Mississippi Valley Company," and by that name, style and title shall have perpetual succession, and all the privileges, franchises and immunities by law incident to a corporation, may sue and be sued, plead and be impleaded, complain and defend in all courts of law and equity, and may purchase, receive, hold and enjoy, to them, their successors and assigns, all such lands, tenements, leasehold estates and hereditaments, goods and chattels, securities, and estates, real, personal and mixed, of what kind and quality soever, and may sell and convey the same at pleasure, and shall also be authorized to erect residences, depots, engine-houses, tracks, shops and other improvements necessary for the purposes of the said corporation as hereafter defined by the second section of this act; and the same may, from time to time sell, convey, mortgage and submortgage, encumber, charge, pledge, grant, lease, sublease, alien and dispose of, and also make and have a common seal, and the same to alter and renew at pleasure, and ordain, establish and put in execution such by-laws or ordinances, rules and regulations, as may be necessary or convenient for the government of the said corporation, not being contrary to the constitution and laws of this State, and generally may do all and singular the matters and things which to them shall appertain to do for the well-being of the said corporation and the management and ordering of the affairs and business of the same.

SECTION 2. Be it further enacted, That the corporation hereby created shall have power to contract with any person or persons, firms, corporations or any other parties whomsoever, formed or existing, or that may hereafter exist in any way; that said parties or any of them may have authority to do, to build, construct, maintain or manage any work or works, public or private, which may tend or be designed to improve, increase, facilitate or develop trade, travel or the transportation and conveyance of freight, live stock and passengers and any other traffic by land or water from or to any part of the United States or the territories thereof, and the

said company shall also have power and authority to supply or furnish all needful material, labor, implements, instruments
26 and fixtures of any and every kind whatsoever, on such terms and conditions as may be agreed upon by and between the parties respectively, and also to purchase, erect, construct, maintain or conduct in its own name, and for its own benefit or otherwise, any such works, public or private, as they may by law be authorized to do, (including also herein lines for telegraphic communication) and to aid, co-operate, and unite with any other company, person, or firm in so doing.

SECTION 3. Be it enacted further, That the company hereby created shall also have the power to make purchases and sales, for investments in the bonds, stocks and securities of the companies and to make advances of money and of credit to other companies, and to aid in like manner contractors and manufacturers, and to receive and hold on deposit, or as collateral or otherwise, any estate or property, real or personal including the notes, stocks, obligations and accounts of individuals and companies and the same to purchase, collect, adjust and settle, and also to pledge, sell and dispose thereof on such terms as may be agreed between them and the parties contracting with them and also to endorse and guarantee the payment of the ob igations of other corporations, firms and individuals, and to assume, become responsible for, execute and carry out any contracts, leases or subleases made by any company, to or with any other company or companies, individuals or firms whatsoever, provided that nothing herein contained shall be construed as to give the said corporation any banking privileges or franchises, or the privileges of making, issuing or putting in circulation any notes, bills, or other paper of any o her bank to circulate money provided, that nothing herein contained shall be construed as preventing this company from availing themselves of the provisions of the act of Congress for a national system of banking.

SECTION 4. Be it enacted further, That the company hereby created shall also have power to enter upon and occupy the lands of individuals or companies (on making payment therefor or giving security according to law) for the purpose of erecting, constructing, maintaining or managing any public work such as is provided for or mentioned in the second section of this act, and to construct and erect such works thereon and also buildings, improvements, structures, roads or fixtures as may be necessary or convenient for the purpose of said company, under the powers herein granted, and to purchase, make, use and maintain any works or improvements, connecting, or intended to be connected with the work of the said company, and to merge, consolidate or unite with the said company the improvements, property and franchises of any other company or companies on such terms and conditions, as the said company may agree upon, and to fix and regulate the tolls or charges
27 to be charged or demanded for any freight, property or passengers traveling over or passing over any improvement erected, managed or owned by the said company on any merchandise or property transported over any road whatsoever by said company,

and to make from time to time dividends from the profits made by said company. Any railroad or the several railroads managed by said company shall be taxable as provided in their charter or other laws of the State and in proportion to their length within this State, respectively, and the property of said "Mississippi Valley Company" that is within the limits of the State, and all its income derived from its business within this State, shall forever be subject to taxation, the same as that of individuals, but its property beyond the limits of this State, and all its income derived from its business beyond the limits thereof shall not be subject to taxation nor shall it at any time be subject to a privilege tax, or any other tax, except as is stipulated in the constitution of the State or as provided in the acts of Congress.

SECTION 5. Be it further enacted, That the capital stock of said company shall consist of one thousand shares of the value of fifty thousand dollars each, being fifty thousand dollars, and with the privilege of increasing the same by a vote of the holders of a majority of the stock present at any annual meeting or special meeting to such an amount as they may from time to time deem needful, and the corporators or any three of them named in the first section of this act, shall have power to open books for subscription at such times and places as they may deem expedient and when not less than five hundred shares shall have been subscribed and twenty per centum thereon shall have been paid in.

The shareholders may elect not less than three nor more than nine directors to serve until the next annual election or until their successors shall be duly elected and qualified, and the directors so elected may and they are hereby authorized and empowered to have and to exercise in the name and in behalf of this company all the rights and privileges which are intended to be hereby given subject only to such liabilities as other shareholders are subject to which liabilities are no more than for the payment to the company of the sums due or to become due on the shares held by them, over and above this no stockholder shall be individually liable and should the capital stock at any time be increased, the stockholders at the time of such increase shall be entitled to a *pro rata* share of such increase, upon the payment of the instalment thereon duly called for and whenever all increase of capital stock is made, a certificate thereof fully executed under the corporate seal of the company and signed by the president and secretary, shall be filed with the secretary of state before the same shall be deemed valid.

28 SECTION 6. Be it further enacted, That the principal office of the said company shall be in Water Valley until otherwise ordered and hereinafter provided, but the directors under such rules and regulations as they may prescribe, may establish branches or agencies in other parts of the State or elsewhere, all of the directors of said company shall be citizens of the United States and reside therein.

SECTION 7. Be it further enacted, That the directors shall be elected annually by the stockholders on the first Tuesday of June of each year, and said directors shall elect from their number at the

first meeting of the board after their election a president, and shall also have power to elect from their number or otherwise a vice-president, a treasurer and secretary, and such other officers, clerks, and agents as the business of the company may require, all elections for directors shall be by ballot and every stockholder shall be entitled to one vote for each share of stock held by him either in person or by proxy, but no person shall be eligible as director who is not a stockholder to the amount of ten shares. At the annual or special meeting a quorum shall consist of stockholders in person or by proxy owning at least one-half the capital stock.

SECTION 8. Be it further enacted, That ten days' notice shall be given by publication in two newspapers published in the State of Mississippi of the time and place of the annual election which election shall be conducted by three stockholders one of which shall act as judge, and the other two as inspectors.

SECTION 9. Be it further enacted, That the board of directors shall make all by-laws necessary for conducting the business of the company, which by-laws shall at all times be accessible to persons transacting business with them. The said directors shall have power by a vote of a majority of their number at any meeting of the board to change the name of the said corporation, and the location of its principal office, or either, but no such name thus adopted shall be deemed valid until a truly certified certificate of its adoption shall be filed with the secretary of state as above provided in case of an increase of stock. The said company shall have, hold and enjoy all the rights, powers, privileges and immunities hereby granted, and such other powers and privileges as belong to corporations by the laws of this State. The directors shall have power to require payment of the amount remaining unpaid on the stock of said company, at such times and in such proportions as they shall think proper, the said assessment to be made as the by-laws of said company shall direct.

SECTION 10. Be it further enacted, That this act take effect and be in force from and after its passage.

29 Passed the house of representatives March 25, 1872.

JOHN R. LYNCH,
Speaker of the House of Representatives.

Passed the senate March 7th, 1872.

JAS. BENNETT,
President of the Senate.

Approved April 2nd, 1872.

R. C. POWERS, *Governor.*

STATE OF MISSISSIPPI,
OFFICE OF SECRETARY OF STATE,
JACKSON, MISS., *June 28th*, 1894.

I, George M. Govan, secretary of state, do certify that the act hereto attached entitled "An act supplemental to and amendatory of an act which passed the senate March 7th, 1872, and passed the house of representatives March 25, 1872, entitled 'An act to incor-

porate the Mississippi Valley Company,'" not yet approved, approved April 2nd, 1872, is a true and correct copy of the original on file in this office.

Given under my hand and the great seal of the State of Mississippi, this 28th day of June, 1894.

GEO. M. GOVAN,
Secretary of State.

STATE OF MISSISSIPPI,
Copiah County.

In the Chancery Court of said County, —— Term, 1878.

THE BILL OF COMPLAINT OF THE MISSISSIPPI MILLS, a Manufacturing Corporation of the State of Mississippi, Existing under that Name by Virtue of a Charter Granted by the Legislature of said State, with its Factories and Domicile in the County Aforesaid, Complainant,

against

WILLIAM W. COOK, Tax Collector of said County, Defendant.

1. The complainant states and shows to the honorable court that the Mississippi mills was incorporated under that name by an act of the legislature of the State passed July 13th, 1871, that certain property which had been owned by a corporation known as the Mississippi Manufacturing Company was sold in proceedings in bankruptcy, against said company, and purchased by certain parties who procured said act of incorporation by which it was provided that the property so purchased should in part represent the capital stock of the corporation at the estimated value, and divided into shares of $1,000 each, and allotted to the several owners of the property so purchased in proportion to their interest therein, and that said owners should subscribe and pay 50 thousand dollars in like proportions, divided into shares of 1,000 dollars, and stock certificates were to be issued to each of said owners according to their interest in the property aforesaid, and subscriptions of money thus making a capital of 250 thousand dollars of paid-up stock. By a provision of the charter aforesaid, the capital stock of said corporation might be increased to 500 thousand dollars; that the property so purchased and converted into stock consisted of an establishment for the manufacture of cotton and other cloth, with other minor kinds of manufacture, to wit, buildings, machinery, and timbered lands surrounding and adjacent to the factory, and subsidiary thereto, and on part of which were erected the various structures needed for the business of manufacturing.

2. Under the charter aforesaid, the corporation, complainant, was duly organized and commenced business, but by an accidental fire, in the year 1873, its buildings and machinery were destroyed and its operations arrested. Before the happening of that event, to wit, in the year 1872, the legislature of the State had by a general law, passed an order to invite and stimulate manufacturing enterprise in the State, and to diversify and multiply its industries, declared that the State hereby agrees with any and all manufacturing com-

panies in this State, whose capital stock shall not be less than ten thousand dollars paid in, and not in operation before the passage of this act that all taxes to which said company or companies shall be subject for the period of ten years, should be appropriated and set apart and shall be applied to the payment of the debts and liabilities which any of said companies may have incurred in the construction of factories or for money borrowed by any manufacturing company, to construct buildings or in paying debts incurred by such companies in constructing or purchasing the same, there are provisions in said act to carry the same into effect, by means of an assessment, to fix the amount of the tax, and a receipt for said taxes as though paid, but no payment in fact was to be made and in lieu of such payment, the company was required to show by affidavit, that the amount assessed had been expended in the manner, or for the purpose designated by the said act; this exemption, complainant is advised it was in spirit and in fact, was to cease when the dividend accruing should exceed 4 per cent. after payment of debts and outlays for machinery, structures, etc.

31 3. The complainant further states that the destruction by fire, as before stated, of the machinery and structures, the essential constituents of the enterprise in which the corporation had embarked while it did not put an end to the existence of the corporate body, arrested its operation and crippled the resources of the corporators, and at the time when the then stockholders were in doubt about the feasibility of any attempt by them to renew the enterprise thus destroyed, the legislature passed the act of 1873, by which the privileges and benefits of the said act of 1872 were extended to and conferred upon the complainant, and the complainant avers that said act was passed to induce a renewal of the enterprise, the utility of which was manifest to that body; and the complainant further avers and charges that the corporators, the then stockholders, were so crippled by the casualty before mentioned, that they were unable and unwilling to replace the machinery and structures destroyed, and that the present stockholders, relying upon the act of 1873 as entitling them to the benefit of the said act of 1872, in respect to the exemption from taxes, and with a view to start the enterprise anew, purchased from the corporators of the Mississippi mills the remnant of property left by the fire which consisted almost entirely of land, constituting the site of the destroyed factory, with the surrounding and adjacent lands, the values of which depended on the locality and its adaption to the purposes of a factory by its abundance of timber for fuel and lumber for the principal enterprise, and in order to supersede the necessity of a new charter, they took from the former stockholders assignments of their stock, except as to Wm. Oliver, who retained his stock, and became a member of the reconstructed corporation, as representing the value of the remnant of property left, and thus becoming stockholders, continued the existence of the organization, being content with the charter existing and the amendment or addition thereto made by the act of 1873, which act was by the new stockholders accepted as part of said charter.

4. The complainant further states and charges that under and after the passage of the said act of 1873, with the guarantee against taxation, except according to the terms of the said act of 1872 the new stockholders, together with Wm. Oliver, of the Mississippi mills, created and put in operation the now existing manufacturing establishment, having purchased the machinery and erected the structures as they now exist by an expenditure of money to that end; that the machinery now in operation is of much greater capacity and the structures larger and more numerous, and that what now exists, and has been put in operation is a manufacturing establishment of the character
32 provided for in the said act of 1872, being a manufactory of cotton and woolen goods with other factories subsidiary to it; that in substance and in fact, and in all except the name and charter organization, it is a manufactory not in operation prior to the passage of said act, and entitled to its benefits, and complainant, is advised even without the express grant in the act of 1873, and although it may not be strictly proper as matter of pleading to make the statement, complainant, nevertheless, avers that the existing establishment is not only a new creation since the date of the act of 1872, but is a realization of the fruits anticipated by its framers. Its capital stock has been increased by about one hundred thousand dollars in paid-up subscriptions, with which machinery has been purchased, and buildings erected. The corporation now employs more than 500 operatives of whom 400 are women and children, and to render these comfortable, and contented, the corporation had erected at great expense cottages and tenements for them on the grounds adjacent to the factory, thus creating a village with its social benefits and with opportunities for education and moral and religious training.

5. The complainant further states that the original corporators purchased a body of land adjacent to the manufactory as it then existed, having in view the needed supply of fuel and lumber in their principal business and not for speculation or profit otherwise, and — to this land by their purchase aforesaid and on which they have erected buildings for the factory offices for the care of the officers of the corporation, and tenements for the operatives, and building for other purposes, and they have added a small outlaying tract of land, but not by way of investment; the complainant appends herewith a statement of the lands including that on which the factory proper, or its structures for machinery are erected, which list will comprise the property assessed to the corporation in the county of Copiah and which has been by the collector treated as exempt, on the corporations making the affidavit, and showing required by the act of 1872, which said corporation has been able truthfuliy to make, as to the taxes and also as to the yield of dividend to the stockholders,—all the said list of lands are as follows, to wit: The W. ½ sec. 3, township 8, range 8 east; all less N. W. ¼ of N. W. ¼ sec. 4, township 8, range 8 east; S. ½ S. W. ¼ and S. W. ¼ S. E. ¼, and S. ½ N. ½ S. E. ¼, and N. E. ¼ N. W. ¼ S. E. ¼, section 28, township 9, range 8 east; S. E. ¼ S. E. ¼, section 32, township 9,

range 8 east, E. ½ and E. ½ of W. ½ less six acres section 33,
33 township 9, range 8 east; all less 55 acres in N. E. ¼ of N. E. ¼ and N. W. ¼ N. E. ¼, east of railroad, and S. E. ¼ of S. E. ¼, section 34, township 9, range 8 east; N. W. ¼ S. W. ¼ and S. W. ¼ N. W. ¼ section 35, township 9, range 8 east; S. E. ¼ N. E. ¼ sec. 7, T. 9, R. 9 east, N. W. ¼ and W. ½ N. E. ¼, and N. E. ¼ N. E. ¼ and N. ½ S. W. ¼ and S. E. ¼ S. W. ¼, and S. W. ¼ S. W. ¼, section 8, township 9, range 9 E.; N. W. ¼ N. W. ¼ sec. 17, township 9, range 9 east; N. E. ¼ of N. E. ¼ sect. 18, township 9, range 8 E.; S. W. ¼ sect. 29, township 9, range 8 east; N. ½ N. W. ¼ and S. E. ¼ S. W. ¼ sect. 32, township 9, range 8 east; W. ½ N. E. ¼ and N. W. ¼ S. E. ¼ sec. 3, township 8, range 8 east. In the town of Wesson, and in section- 6, 3 and 4, township 8, range 8 east, and sections 33 and 34, township 9, range 8 east.

The following town lots are not owned by the Mississippi mills, of the above-described lands to wit: Lot of W. H. Hallam, of Mrs. Hartwell, John Sartain, Wm. Oliver, McPherson, two lots Wimberly and Rea, and lot Mr. R. E. Ray.

The town lots in this list mentioned as not the property of the Mississippi mills, *is* not intended to be included in this suit, as said complainant has no interest in them or *no*thing to do with them. The complainant further states that the real estate originally purchased by the corporators as part of the assets of the Mississippi Manufacturing Company, consisted of the site of the factory buildings proper, and lands valueless for other than purposes immediately connected with the main business. The machinery was, and is now, impelled by steam, and fuel supplying the place of water power, and lumber for structures, and other manufactories carried on by the company then, and *to* the complainant now, were indispensable, the factory is located on wild land, distant from towns and cities. In the condition of the country it was as necessary to provide for lodging the operatives as it was to provide shelter for the machinery and the real estate aforesaid attached to the factories was purchased and is used to supply these needs; that the act of incorporation recognized the property as pertaining to the business and authorized its conversion into capital stock, and it so exists as such stock at this time; so that it is not only property of the corporation, but property necessary to its operations, not purchased or used for profit, or as an investment, but for uses immediately connected with the main business and so employed. The complainant further states and charges that the Mississippi mills is yet largely indebted for purchases of machinery, for its manufacturing busi-
ness, that its entire increase has been absorbed in such pur-
34 chases, and in the erection of the needed buildings; that no dividend has been earned, and, therefore, no dividend declared; that the increase to the stockholders consists entirely in added machinery, and in the enlarged capacity of the mills; that the general stagnation of trade, common to the whole country has affected it, and it has not been, and is not able to declare a dividend, and that its profits over and above the expenses of operating the mills, and the payment of its debts incurred in the purchase

of machinery *has* not reached four per cent. and the full amount of the current year's taxes has been expended in the manner designated by the act of 1872.

And the complainant further avers that on the 14th day of December, 1877, it presented through its secretary and treasurer, Wm. Oliver, the affidavit required by the said act of 1872, to the collector, the said defendant, and demanded his receipt for the amount of the taxes assessed on the property of the corporation, but the said collector refused to give such receipt, or any receipt for the taxes of any portion of said property, unless upon the payment in cash of the tax collector's commissions and the commissions of the assessor in cash, or legal warrants for the assessment and collection of the taxes which would be due on the capital stock, the machinery, manufactured goods and the buildings in which said machinery is located, or within the necessary enclosure, around said buildings, the said defendant alleges that he will accept the affidavit aforesaid, in satisfaction of the tax due on the above-mentioned property the land which he alleges as exempt from taxation, being as follows: Five acres more or less, contained within the enclosure around the Mississippi mills, and the buildings therein situated, containing the machinery of the Mississippi mills, the same exempt under the act of 1877 of the legislature of Mississippi, the same being the enclosure in the town of Wesson, in which the Mississippi mills are located, and that the taxes due on all the other lands and property assessed to the Mississippi mills, must be paid as other taxes are paid, and that he would not receive said affidavit for the same.

And moreover the complainant charges that the said defendant insisted that the complainant should pay the taxes at the assessed value on all the property of the corporation before described and set forth in the list aforesaid, except the machinery and the buildings and ground on which they stand in which the machinery is placed or in operation and the paid-up capital stock, and manufactured goods; that the property excepted comprises almost the entire real estate of the corporation, taking in the ground on which the tenements of the operatives are located, and on which stand other buildings and storehouses in which no machinery is placed or operated, including the offices of the company, clerks and servants, and of its officers, this excepted property, complainant avers, was assessed with reference to its connection with the factories of the corporation and as a necessary adjunct to it, and the existence of the factory imparted to this property a value which it possesses for no purposes save those connected with the factories, being wildwood land principally valuable for lumber and wood. It was assessed very high at $75.00 per acre, so that the amount of taxes required to be paid for it is very large, to wit: about $4,728.68.

And the complainant further states and charges that the said defendant, the tax collector aforesaid, declared that the refusal of the complainant to pay the taxes so demanded, and the commissions aforesaid would be treated as a default by him and he has advertised and threatens to subject to sale, and will sell the real estate of

the complainant on which the taxes are demanded, to be paid, any property exempt or not owned by the company for the commissions and taxes aforesaid, unless restrained by the order of this honorable court. The complainant states, as he is advised, that any such sale would be void, but it would, nevertheless, create an apparent title and give rise to litigation, and embarrass the title to the property. The complainant further states that the said collector found his authority, or rather his pretended authority for his exaction of the taxes and commissions aforesaid, which latter are taxes under a very thin disguise, upon an act passed by the legislature of 1877, which act by the first and other sections thereof undertakes to repeal and limit the provisions of the said act of 1872. The complainant, however, charges expressly that the existing manufacturing establishment known as the Mississippi mills, was created and put in operation since the act of 1872 and since the act of 1873, making the provisions of the former act part of the charter of the Mississippi mills; that the machinery operated, and the structure containing and supporting *has* been purchased and brought into the State, and the structure built on the faith of said acts, and the expenditures very large and onerous made on the faith of said acts, and it insists that the said acts, as to it, are irrepealable, and subject to no modification without its consent, in so far as such modification may materially affect the benefits conferred by them; that the exemption from taxation as contained in the act of 1872, is part of the charter of the Mississippi mills, with all the effect as though it had been originally inserted in it, and on the faith of said act and charter, the present stockholders of the Mississippi mills made the entire expenditure by which the existing manufacturing establishment was created.

The complainant further states that said act of the legislature of 1877, as he is advised, and so advised, expressly charges
36 is in violation of the Constitution of the United States, because an act or law passed to impair the obligation of a contract, and is therefore void, so far as the complainant is concerned, and to execute it by a forced sale of the property of the complainant, a great wrong, wherefore, the complainant prays that the said W. W. Cook, the defendant be summoned to appear as a defendant to this suit, and required to answer this bill and in the meanwhile, in order to arrest this wrongful and illegal proceeding, the complainant prays that an injunction may issue enjoining and restraining the said defendants from collecting or attempting to collect the taxes and commissions so demanded as aforesaid, by sale of the complainant's real estate or otherwise, until the further order of the court, and on final hearing of the matters of this bill, the complainant prays that said injunction be made perpetual, and that the said collector, the defendant, or his successor in office, is directed and required to execute and deliver to the complainant a proper receipt for the taxes aforesaid in accordance with the terms of the act of 1872 and 1873 without regard to the provisions of the said act of 1877, and for such other and further relief as the case made shall justify, and as in duty bound, etc.

In verification of the facts set forth in the foregoing, the said Mississippi Mills affixes hereto its corporate seal with the signature of Wm. Oliver, its secretary and treasurer.

[SEAL.]

WM. OLIVER,
Sec'y & Treasurer.
HANNIS & GEORGE AND
HANNIS & MILLER,
Sol'rs for Compl't.

STATE OF MISSISSIPPI,
Adams County.

Pleas before the Honorable Claude Pintard, chancellor of the fourth chancery court district of the State of Mississippi, at a term of court begun, convened, and held at the court-house, in the city of Natchez, county of Adams and State of Mississippi, on Monday, the sixth day of March, in the year of our Lord one thousand eight hundred and ninety-three.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY ET AL.
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector of Adams County, Miss.

Be it remembered that heretofore, to wit: on the 9th day of
37 January, A. D. 1893, the complainants, by their solicitors, Will T. Martin and Yerger and Percy, filed their certain bill of complaint with Exhibits "A," "D," "E" and "H," thereto in the office of the chancery clerk, the said bill and exhibits being in words and figures, as follows, to wit:

STATE OF MISSISSIPPI,
Adams County.

In Chancery, to March Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY and The Yazoo & Mississippi Valley Railroad Company, Corporations Duly Incorporated under the Laws of the State of Mississippi and Now Existing and Having Their Domicile in said State, Complainants,
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector of Adams County, Mississippi, a Citizen of said County and State, Defendant.

To the honorable chancery court of Adams county, Mississippi:

Complainants show to the court that on the 21st day of August, 1870, by act of the legislature of said State, duly enacted and approved, as required by the laws of said State, the Natchez & Jackson Railroad Company was duly and legally incorporated, and by said act of incorporation, was granted authority and empowered to construct and finally complete a single or double railroad, or way, from the city of Natchez, in said county of Adams, to the city of Jackson, in the county of Hinds, in said State. That on the 23rd

day of February, 1872, by acts of the legislature of said State, approved and enacted as required by laws of said State, the charter of the Natchez & Jackson Railroad Company was so amended as to authorize said company at its pleasure to adopt the name and style of the Natchez, Jackson & Columbus Railroad Company, and to build such branches and feeders, as might be deemed practicable or necessary, and to construct its main line from Jackson to Columbus, Mississippi; and that by resolution of the board of directors of said Natchez & Jackson Railroad Company, duly passed, it was determined to accept the privilege granted to that company to change its name to that of the Natchez, Jackson & Columbus Railroad Company, and the change was made and acted on.

That on the 20th day of July, A. D. 1870, by act of the legislature of said State, duly enacted and approved, according to law,
38 the Mobile and Northwestern Railroad Company was incorporated and in the charter of the last-named company, there is, among other things, section 21, which is in the following words, to wit:

"SECTION 21. Be it further enacted, That in consideration of the construction of the railroads provided for herein, and of the great benefit which the State will receive in the development of its agricultural resources, by means of said railroad, as works of internal improvement, and also of the increased value which will thereby be added to the property of the State, thus enabling the State to greatly increase its revenue without additional or burdensome taxation upon the people, the State hereby agrees with said company—which agreement is irrepealable, that all taxes to which said company shall be subject for the period of 30 years, are hereby appropriated and set apart, and shall be applied to the payment of the debts and liabilities which the said company may have incurred in the construction of said road, or for money borrowed by said company upon lands, or otherwise, to be used in constructing said road, or paying debts incurred by said company in constructing the same, and it shall be the duty of the tax collector, in every county, in each and every year, to give to said company a receipt in full for the amount of said taxes, upon receiving from the company an affidavit, made by the president or cashier of said company that the amount of said taxes have actually and in good faith been paid and applied by said company, during the year, in payment of the debts incurred, or money borrowed as aforesaid and which receipt shall be in full of all taxes, county, State and municipal, to which the said company shall be subject; provided, however, that whenever the profits of said company shall enable it to declare and pay to the stockholders an annual dividend of eight per cent. on its capital stock, over and above the payment of its debts and liabilities, then the appropriation of the taxes aforesaid shall cease, and said taxes shall be paid by said company to the tax collector, to be by him paid over as required by law."

That on the 8th day of August, A. D. 1870, by an act of the legislature of said State, enacted and approved as by law required, sup-

plemental to the acts of incorporation of certain railroad companies, the provisions of said section 21 of the act incorporating the said Mobile and Northwestern Railroad Company, were made to apply to the Natchez, Jackson & Columbus Railroad Company, the charter of which was so amended by said act of March 5th, 1878, as to confer upon said Natchez, Jackson & Columbus Railroad Company, all the rights, privileges, immunities and franchises theretofore granted or intended to be granted by, and embraced in the 21st section of said act, entitled: "An act to incorporate the
39 Mobile and Northwestern Railroad Company," and by said act, all taxes, State, county and municipal theretofore levied and assessed, or thereafter to be levied and assessed, upon the property of the Natchez, Jackson & Columbus Railroad Company, were by the State of Mississippi, and by the provisions of said act, appropriated and set apart, and were to be applied in the manner and for the purposes mentioned in the said 21st section of the act, incorporating the Mobile & Northwestern Railway Company, and that said appropriation and application was to continue for 30 years, from the 8th day of August, A. D. 1870.

That on the 19th day of February, A. D. 1890, the legislature of the State of Mississippi, by an act of that date enacted and approved according to the laws of said State, authorized the Natchez, Jackson & Columbus Railroad Company to sell all or any part of its railroad and other property situated in the State of Mississippi, together with all franchises, rights, privileges and immunities unto said company belonging.

Complainants further show, that on the 18th day of August, 1881, the Tennessee Southern Railroad Company was duly and regularly incorporated under and by virtue of the laws of the State of Tennessee. That on the 8th day of August, 1870, the Vicksburg & Memphis Railroad Company; and on the 9th day of March, 1882, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company *was* duly and regularly incorporated, under and by virtue of the laws of the State of Mississippi, and that on the 17th day of September, 1881, the New Orleans & Mississippi Valley Railroad Company was duly and regularly incorporated, under and by virtue of the laws of the State of Louisiana.

Complainant- further show, that by an act of the legislature of the State of Mississippi approved March 3d, 1882, entitled "An act to authorize the Memphis & Vicksburg Railroad Company, and the Mississippi Valley & Ship Island Railroad Company, to effect a consolidation," the Memphis & Vicksburg and the Mississippi Valley and Ship Island Railroad Companies were authorized and empowered to consolidate with each other, or any other railroad company, or companies, that had been incorporated under the laws of the State of Mississippi, or any other State, and so that all companies so consolidated, should be merged into and become one company; and by said act it was provided, that the company so formed by said consolidation, should be deemed and held to be a corporation created by the laws of the State of Mississippi, and should have, enjoy and possess all the rights, ways and privileges, franchises,

property, grants and immunities which at the time of the passage of the act were possessed by the companies that might enter into such consolidation, as fully as though the same were conferred specifically in said act, and to that end, the charters of the said consolidated companies should be taken and held as part of said act authorizing the Memphis & Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation.

That subsequent to the passage of said last-named act, an amendment thereto was passed by the legislature of the State of Mississippi, which amendment is entitled: "An act to amend an act entitled An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation," approved March 3d, 1882. That said amendatory act was approved March 10th, 1882, and authorized and empowered the Memphis & Vicksburg Railroad Company and any other railroad company, or companies incorporated under the laws of this State, to consolidate in the manner, and upon the terms and conditions, and with rights and privileges and immunities in the said act mentioned with each other, or any other railroad company or companies incorporated, or organized under the laws of any other State or States, and that such consolidation might be so effected, whether the Mississippi Valley & Ship Island railroad became a party to such consolidation or not.

That under and by virtue of the statutes of the respective States of Mississippi, Tennessee, and Louisiana in such cases made and provided, and in consideration of the mutual undertaking-, covenants and agreements then entered into by said companies, the Tennessee Southern Railroad Company, created as aforesaid and then existing under — by virtue of the laws of the State of Tennessee, and the Memphis & Vicksburg Railroad Company, a corporation created as aforesaid, and then existing under and by virtue of the laws of the State of Mississippi; the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, a corporation created as aforesaid, and then existing under and by virtue of the laws of the State of Mississippi; and the New Orleans and Mississippi Valley Railroad Company, a corporation created as aforesaid and then existing under and by virtue of the laws of the State of Louisiana, entered into and effected the consolidation of each of said companies into one railroad company, to be thereafter known as the Louisville, New Orleans and Texas Railway Company, and that into said consolidated company, has merged and consolidated the several capital stocks, franchises, grants, immunities, privileges, properties, rights of way and all property, real, personal, and mixed of the several companies as hereinbefore mentioned, as entering into said consolidation as shown by a certificate of consolidation filed herewith, and marked "Exhibit A" and prayed to be taken and considered as part of this bill.

That in pursuance of said act of February 10th, 1890, hereinbefore referred to, the said Natchez, Jackson & Columbus Railroad Company did, on the 5th day of March, 1890, by deed duly executed

and delivered, sell to the Louisville, New Orleans and Texas Railway Company, all the railroad property situated in the State of Mississippi, and particularly the line of railroad constructed by the said Natchez, Jackson & Columbus Railroad Company, and running from the city of Natchez, in the county of Adams, to the city of Jackson in the county of Hinds, in the State of Mississippi, together with all rights, powers, privileges and immunities, possessed by said Natchez, Jackson & Columbus Railroad Company, as to said property so sold as aforesaid, and in which rights, powers, privileges and immunities, complainants charge was embraced the right to have the president or cashier of the Louisville, New Orleans & Texas Railway Company, or its successors or assigns make the aforesaid affidavit as required by sec. 21 of the act creating and incorporating the Mobile & Northwestern Railroad Company, showing the payment of the taxes then due, or thereafter to become due on the property, so sold as aforesaid, by the Natchez, Jackson & Columbus Railroad Company, and the payment of the debts incurred by the said Natchez, Jackson & Columbus Railroad Company, and used by it in the construction of the railroad built by it from Natchez to Jackson, Mississippi, and also the right to have said taxes applied to the payment of said debts, so incurred in the construction of the railroad as aforesaid.

Complainants aver that said sale and conveyance to said Louisville, New Orleans and Texas Railway Company by said Natchez, Jackson & Columbus Railroad Company was made to said Louisville, New Orleans and Texas Railway Company subject to an indebtedness of the selling company, as evidenced by its bonds of one million two hundred and fifty thousand dollars, and that said indebtedness was incurred by the said Natchez, Jackson & Columbus Railroad Company in the construction of its said railroad from Natchez to Jackson, and the said sum of one million, two hundred and fifty thousand dollars was used in the construction of its said road, by said Natchez, Jackson & Columbus Railroad Company; the road so constructed being that sold as aforesaid, to the said Louisville, New Orleans and Texas Railway Company, and that by section 25 of an act of the legislature of the State of Mississippi, entitled "An act to incorporate the New Orleans, Baton Rouge,
42 Vicksburg & Memphis Railroad Company, approved March 9th, 1882," the Louisville, New Orleans and Texas Railway Company was authorized to purchase the property, rights, powers and immunities of the Natchez, Jackson & Columbus Railroad Company from it, as hereinbefore set forth.

Complainants further show, and aver, that under charter granted to it, the Natchez, Jackson & Columbus Railroad Company constructed in Adams county, Mississippi, 14 and one hundred and twenty-eight one-thousandths miles of railroad and that these fourteen and one hundred and twenty-eight one-thousandths miles of railroad, *was* a part of that property included in the sale and conveyance by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company as hereinbefore set forth.

Complainants state and expressly charge that in the transfer and sale as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company, the franchises possessed by the Natchez, Jackson and Columbus Railroad Company of being a corporation *were* not sold and did not pass to the Louisville, New Orleans and Texas Railway Company by the sale aforesaid, and that the corporate existence of said Natchez, Jackson & Columbus Railroad Company, since said sale to the Louisville, New Orleans and Texas Railway Company still exists and is intact and in full force, and that the stockholders of the Natchez, Jackson & Columbus Railroad Company, since said sale to the Louisville, New Orleans and Texas Railway Company, have held meetings and elected officers as provided in the charter of that company, and that said company has now a full complement of officers, as required by the charter thereof. That the action of the legislature in extending the provisions of the 21st section of the act incorporating the Mobile & Northwestern Railroad Company to the several railroad companies named in the act of 1870, and hereinbefore set forth, was an inducement held out by the State of Mississippi, to the incorporators named in the charters of said companies and their associates to invest money in the State of Mississippi, and under said charters to construct railroads therein; that the inducement so held out by said State to the Natchez, Jackson & Columbus Railroad Company was accepted by said company, and acted on in good faith, and under its charter and the several amendments thereof, that company constructed a railroad in the State of Mississippi, from Natchez to Jackson, 93¾ miles in length, and that thereby the charter originally incorporating the Natchez,
43 Jackson & Columbus Railroad Company and the several amendments thereto, and the provisions, privileges, and immunities contained in said 21st section of the act incorporating the Mobile & Northwestern Railroad Company and made part of the charter of the Natchez, Jackson & Columbus Railroad Company as aforesaid, became a contract between the State of Mississippi and the Natchez, Jackson & Columbus Railroad Company, which is irrepealable and inviolable.

Complainants further state that on the faith of said contract and the provisions of the charter incorporating the Natchez, Jackson & Columbus Railroad Company, and the several amendments thereto, and the privileges granted by, and the provisions contained in said 21st section of the act incorporating the Mobile and Northwestern Railroad Company, the Natchez, Jackson & Columbus Railroad Company invested its capital in the construction of the line of said road, from the city of Natchez to the city of Jackson, as aforesaid, and has, since the construction of said railroad, employed its capital in the operation and maintenance thereof, relying on said contract, and reposing in the belief that the taxes to which it was subject would be appropriated, by the State of Mississippi, to the payment of its debts and liabilities, incurred in the construction of said railroad, and as provided for by said section 21st of the act incorporating said Mobile & Northwestern Railroad Company, and that said

contract and agreement on the part of the State of Mississippi, went far beyond the mere privilege of an exemption from taxation, the State having solemnly agreed in said contract, and by the acts of the legislature aforesaid, that if said company should construct a railroad as provided for in its charter and the amendments thereto and should incur debts and liabilities in so doing, that unless the earnings of said company should entitle it to declare and pay to its stockholders a dividend of eight per cent. upon its capital stock, over and above its liabilities, that the taxes to which it was subject for the term of 30 years from the date of its incorporation, in 1870, should be appropriated by the State of Mississippi, to the payment of the debts and liabilities incurred by the company in building said road.

Complainants further show, and state, that, by the sale and conveyance of the said road from Natchez to Jackson, Miss., by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company, together with the privileges and immunities thereunto belonging, the Louisville, New Orleans and Texas Railway Company became entitled to have the taxes on the property, so sold to it as aforesaid by the Natchez, Jackson & Columbus Railroad Company, applied to the payment of the debts incurred by the Natchez, Jackson & Columbus
44 Railroad Company in the construction of said railroad so sold, as aforesaid.

Complainants further show, that on the 17th day of February, 1882, by an act of the legislature, duly enacted and approved as required by the laws of the State of Mississippi, the Yazoo & Mississippi Valley Railroad Company was incorporated, and that it is now an existing corporation under the laws of the said State, having its domicile therein; that on the 25th day of October, 1892, the Louisville, New Orleans and Texas Railway Company was merged into and consolidated with the Yazoo & Mississippi Valley Railroad Company, and that by said merger and consolidation, the capital stock, franchises, grants, privileges, immunities, properties, rights of way and all property, real, personal and mixed, theretofore belonging to the Louisville, New Orleans and Texas Railway Company, *was* merged into, and became the property of the Yazoo & Mississippi Valley Railroad Company, all of which will fully appear by reference to a certified copy of said act of consolidation, to be filed with bill and marked "Exhibit C," and prayed to be taken as a part of this bill. That the said merger and consolidation between the said railroad companies, last named, was authorized by the charters of each of said companies, and was duly, regularly and legally made and entered into by said companies.

Complainants charge that by reason of said merger and consolidation last above named, the Yazoo & Mississippi Valley Railroad Company thereby became entitled to, and was immediately upon said merger and consolidation, possessed of all the rights, powers, privileges, and immunities theretofore belonging to said Natchez, Jackson & Columbus Railroad Company, and the said Louisville, New Orleans and Texas Railway Company, and in which said

rights, powers, privileges and immunities, complainants charge, was embraced the right to have the president or cashier of the Yazoo & Mississippi Valley Railroad Company, or its successors or assigns, make the affidavit required by section 21 of the act incorporating the Mobile & Northwestern Railroad Company showing the payment and application of the taxes then due, or to become thereafter due on the property sold, as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company, to the payment of the debts of the Natchez, Jackson and Columbus Railroad Company, incurred by it and used by it in the construction of the railroad from Natchez to Jackson, Mississippi, and to have said taxes applied to the payment of the debts and liabilities incurred by said Natchez,
45 Jackson & Columbus Railroad Company in the construction of said railroad from Natchez to Jackson, Mississippi.

Complainants further show and charge that in the years 1891 and 1892, the Natchez, Jackson & Columbus Railroad Company, and the Louisville, New Orleans and Texas Railway Company, actually and in good faith, paid and applied the amount of taxes to which said Natchez, Jackson & Columbus Railroad Company was subject, and to which the said Louisville, New Orleans and Texas Railway Company was subject, on the property purchased by it from the Natchez, Jackson & Columbus Railroad Company for each of said years, 1891 and 1892, in the payment of the debts and liabilities incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of said railroad from Natchez to Jackson, Mississippi, and in the said county of Adams, to be used, and which was used in the construction of said road, or in paying debts incurred in constructing the same, and that the profits of neither the Natchez, Jackson & Columbus Railroad Company, nor of the Louisville, New Orleans and Texas Railway Company, nor of the Yazoo & Mississippi Valley Railroad Company have been sufficient to enable the said companies, or either of them, to declare and pay to the stockholders thereof, an annual dividend of eight per cent., or any per cent., on the capital stock of said companies, or either of them, over and above the payment of the debts and liabilities of said companies, and each of them; and that complainants have caused to be made by the proper officer of each of the said companies, affidavits setting forth said facts, and in strict compliance with the requirements of section 21 of the act incorporating the Mobile & Northwestern Railroad Company hereinbefore fully set forth, and have presented said affidavits to the defendant in this suit, who is the sheriff and tax collector of Adams county, Mississippi, and have demanded of him as such collector, sheriff and tax collector, a receipt in full for all taxes, State, county, and municipal to which said companies, or either of them, were subject for the years 1891 and 1892, on property situated in said county of Adams, Mississippi; and that notwithstanding the payment and application of the amount of taxes to the debts and liabilities of the Natchez, Jackson, and Columbus Railroad Company, as hereinbefore set forth, and the making and presentation of the affidavits, as herein-

before set forth, and the demand for the receipt in full for all taxes to which the companies heretofore mentioned were, or are subject in said county of Adams, for the years 1891 and 1892, the said defendant not regarding the rights of complainants, refused, and still refuses to comply with said demand.

46 The following is the amended bill of the complainants and is embraced within the following parenthesis, drawn with red ink. The portion of this transcript within the red-ink-line parenthesis contains the amendment to bill filed by complainants, February 24th, 1893.

Attest: ALLISON H. FOSTER, *Clerk.*

Chancery Court, Adams County, Mississippi.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY and The Yazoo and Mississippi Valley Railroad Company
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector. } No. 1216.

Amendment to Bill.

To be inserted at the end of line 29, page 19, of the bill herein.

"Complainants would further show, that after the purchase of the property of the Natchez, Jackson & Columbus Railroad Company by the Louisville, New Orleans and Texas Railway Company as hereinbefore stated and as shown by the deed from the said Natchez, Jackson and Columbus Railroad Company to said Louisville, New Orleans and Texas Railway Company, dated —— 28th, 1890, that the line of railroad purchased from said Natchez, Jackson & Columbus Railroad Company by said Louisville, New Orleans and Texas Railway Company, running from the city of Natchez, in the county of Adams, to the city of Jackson, in the county of Hinds, of the State of Mississippi, was operated and maintained as a separate division, and that the amounts of the receipts, expenditures and disbursements of said division of railroad running from said city of Natchez to said city of Jackson as aforesaid, were so kept by the officers of the said Louisville, New Orleans and Texas Railway Company as to enable them at all times to ascertain and furnish a full, complete and accurate statement of the receipts received from the operation and maintenance of said division of railroad; and the disbursements and expenditures made by said company in the maintenance and operation of said division of railroad, and of the gross and net earnings of said line of railroad constituting said division and running from the city of Natchez to said city of Jackson; and that at the time of purchasing said line of railroad running from the city of Natchez to the city of Jackson as aforesaid, from the said Natchez, Jackson and Columbus Railroad Company, and at the time

47 of the making and ordering and filing the copies of the affidavits herewith filed as exhibits to this bill of complaint and showing the application of taxes to which company was subject to the payment of the debts and liabilities incurred by said Natchez,

Jackson & Columbus Railroad Company in the construction of said road running from the city of Natchez to said city of Jackson as aforesaid, there was a contract existing between the State of Mississippi and the said Natchez, Jackson and Columbus Railroad Company, and said Louisville, New Orleans and Texas Railway Company, authorizing each of said companies and empowering them under said contract to apply to the payment of the debts and liabilities which said companies had incurred in the construction of railroads in the State of Mississippi, all taxes to which said companies, or either of them were subject; and that the taxes sought to be collected by defendant on the line of railroad from Natchez to Jackson, sold as aforesaid by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company, had, prior to the attempt of defendant to collect said taxes, been applied by complainants as they were authorized by law to do, to the debts incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of the line of railroad from the city of Natchez to the city of Jackson, sold as aforesaid by the Natchez, Jackson & Columbus Railroad Company, to the said Louisville, New Orleans and Texas Railway Company."

"Agreed, that this amendment shall now be filed to take effect as if it had been embraced in the original bill herein.

Natchez, February 24, 1893.

K. PALMER LANNEAU,
Sol. for Deft.

Complainants charge, that defendant, as sheriff and tax collector of said Adams county, is and was by law required to accept said affidavits and give a receipt in full for the taxes hereinbefore mentioned, as well as any privilege tax that had been, or might be demanded, by said State of Mississippi, or to which complainants, or the Louisville, New Orleans & Texas Railway Company was, or might be, subjected, on the part of said railroad operated in said Adams county, Mississippi; that the payment and application of said taxes, the making of said affidavits, the presentation thereof to defendant and his refusal to deliver said tax receipts as required by section 21 of the act incorporating the Mobile & Northwestern Railroad Company, will fully appear by an examination of a true copy of said affidavits made and presented as aforesaid, together with the indorsement of the defendant thereon, the originals
48 whereof are now on file in your honor's court as Exhibits "D," "E," "F" and "G," to bill of complaint in the suit filed by your complainant *vs.* defendant to enjoin the collection of State and county taxes for the years 1891 and 1892 on the property of complainants in said Adams county, Mississippi, and also the certificate of said sheriff and tax collector, that the Mississippi railroad commission of the State of Mississippi, during the month of November, 1892, certified to him, said defendant, that privilege taxes were due for the year 1892, due by the said Louisville, New Orleans & Texas Railway Company, Natchez, Jackson & Columbus division, assessed by said commission as "class 3rd," at the valuation of

$10,000 per mile, and on 13.300 miles, the total privilege tax claimed being $133.00, and that in default of payment of said privilege tax, he did, on the 30th day of December, levy on passenger coach No. 11, then on the railroad at complainants' The Yazoo & Mississippi Valley's depot in the city of Natchez, Mississippi, as will more fully appear by reference to copies of said affidavits, indorsements thereon and said certificate of sheriff to be filed herewith as Exhibits "D," "E," "F" and "H," and prayed to be taken as a part of this bill.

That prior to the levy on said car, which said defendant has seized and advertised for sale, to wit: on the — day of December, 1892, the said affidavits were again presented to said defendant as sheriff and tax collector, and a receipt for said privilege taxes so assessed, as shown above, was demanded by complainants, and was refused by defendant, and he has advertised said car for public sale, to enable him to collect said privilege tax, and will proceed to sell it unless restrained by order of this court, to the great damage of and violation of the rights of complainants as hereinbefore set forth.

Complainants further show, that having refused to receive or recognize the affidavits of complainants, showing the payment and application of the taxes of 1891 and 1892 to the debts and liabilities of the Natchez, Jackson & Columbus Railroad Company, incurred and used in the construction of the railroad running from Natchez to Jackson, Mississippi, and to give a receipt in full for said taxes, including said privilege tax, and claiming that the affidavits tendered him are not sufficient in law to warrant him in giving receipts for said taxes including said privilege tax, the said defendant, sheriff and tax collector of Adams county, will, unless restrained by order of this court, proceed, as he has advertised he will do, to sell on the — day of January, 1893, the said car seized by him as aforesaid, to satisfy said demand for privilege tax of $133.00, damages and costs, regardless of the rights of complainants, as hereinbefore set forth.

49 The premises considered, complainants pray that James W. Lambert, sheriff and tax collector of Adams county, Mississippi, be made a party defendant to this bill, and be required to answer all the allegations thereof, and that he be inhibited and enjoined, by order of this court from proceeding to collect said privilege tax of $133.00, assessed by said railroad commission for the year 1892, claimed by him to be due as aforesaid on the property of complainants, derived as aforesaid from the Louisville, New Orleans and Texas Railway Company, or the Natchez, Jackson & Columbus Railroad Company, and from selling the said car levied on as aforesaid, or any other property of roads aforesaid, and that on final hearing he be perpetually enjoined from collecting said privilege tax, or interferring on account thereof with the property of complainants in the said county of Adams, and that he be required by the order of this court to deliver to complainants a receipt as by law required, for the amount of said privilege tax assessed and levied as aforesaid.

May it please your honor to grant the said complainants, the State's writ of subpœna, directed and commanding, etc.

And as in duty bound, complainants will ever pray, etc.

YERGER & PERCY AND
WILL T. MARTIN,
Complainants' Solicitors.

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me, Allison H. Foster, clerk of the chancery court of said county, Will T. Martin, one of the solicitors for complainants in the foregoing bill of complaint, who states on oath, that the matters and things set forth in the foregoing bill as stated therein on the knowledge of complainants or affiant are true, and those stated on the information of others, he verily believes to be true.

WILL. T. MARTIN.

Sworn to and subscribed before me this 7th day of January, A. D. 1893.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

EXHIBITS "D" AND "E."

STATE OF MISSISSIPPI, }
County of Adams. }

Personally appeared before me, the undersigned Allison H.
50 Foster, clerk of the chancery court of the county aforesaid, A. M. Cooke, president of the Natchez, Jackson & Columbus Railroad Company, with whom I am personally acquainted, and whom I know to be the president of said company, who, being first duly sworn, made oath and deposed as follows:

1. That he is the president of the Natchez, Jackson and Columbus Railroad Company, a corporation existing under the laws of the State of Mississippi.

2. That in the year 1891 the said railroad company applied as much as the sum of $75,000 *dollars* to the payment of the debts and liabilities which said company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and which was used, in constructing said railroad and paying debts incurred by said company in constructing same.

3. That the amount of all the taxes upon said railroad for the year 1891, in the county of Adams, State of Mississippi, have actually and in good faith been paid and applied during the year 1891, in the payment of the debts incurred or of the money borrowed as aforesaid; and that the amount of taxes upon said railroad in the county of Adams, State of Mississippi, in and for the year 1891, have actually and in good faith been paid and applied to the pay-

ment of the debts incurred, or money borrowed in the construction of said railroad in said county of Adams during the year 1891.

4. That the income and profits derived from said railroad and the use and operation thereof for the year 1891, or for any year since its construction, have not been sufficient to pay any dividend to its stockholders or owners; and that for the year 1891, the profits of said company, or the profits derived from the use and operation of said railroad, have not either or both been sufficient to enable it to declare and pay to the stockholders an annual dividend of eight per cent. on its capital stock, over and above the payment of its debts and liabilities.

A. M. COOKE.

Sworn to and subscribed before me this 5th day of November, A. D. 1892.

[SEAL.] ALLISON H. FOSTER, *Clerk*,
By WM. A. FOSTER, *D. C.*

STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE, NATCHEZ, MISS., *Nov.* 5, 1892.

On advice of counsel, I respectfully decline to give a receipt
51 for the taxes assessed against the L., N. O. & T. R. R., Natchez division, in the county of Adams and State of Mississippi, for the year 1891, said taxes not having been paid, and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes, or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

STATE OF TENNESSEE, }
County of Shelby, } *ss:*

Personally appeared before me, the undersigned H. B. Belt, a commissioner for the State of Mississippi, duly appointed and qualified according to the laws thereof, and resident in Memphis, Tennessee, James M. Edwards with whom I am personally acquainted who, being first duly sworn, made oath and deposed as follows:

1. That he was, prior to the 25th day of October, 1892, vice-president and cashier of the Louisville, New Orleans and Texas Railway Company, a corporation existing under the laws of the State of Mississippi, prior to said date.

2. That on the 28th day of March, 1890, the Natchez, Jackson & Columbus Railroad Company, by deed duly executed and delivered, granted, bargained, sold, assigned, transferred and conveyed to the Louisville, New Orleans and Texas Railway Company as it was by law authorized to do, the railroad theretofore constructed and owned by the Natchez, Jackson & Columbus Railroad Company, from Natchez to Jackson, Mississippi, and also the immunity from taxation then held, enjoyed and possessed by said Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount

of all such taxes as said Natchez, Jackson & Columbus Railroad Company might be subject —, to the payment of the debts and liabilities which were incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of said railroad, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and which was used by said company in constructing said railroad, and in paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same; and also, all other property owned at said date by the Natchez, Jackson & Columbus Railroad Company in the county of Adams and State of Mississippi.

3. That the sale, conveyance and transfer of the railroad running from Natchez to Jackson, Mississippi, and, also, the immunity from taxation then held and possessed by the Natchez, Jackson &
52 Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Columbus Railroad Company was subject to, to the payment of the debts and liabilities *of* which the Natchez, Jackson & Columbus Railroad Company incurred in the construction of the railroad running from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used, and which was used, by said company, in constructing said railroad and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, was made by said Natchez, Jackson & Columbus Railroad Company, to the Louisville, New Orleans & Texas Railway Company, subject to an indebtedness of $1,250,000, which sum was incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of the railroad from Natchez to Jackson, Mississippi, by said company, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and which was used, in constructing said railroad, and paying debts incurred by said company in constructing the same, and which said indebtedness is evidenced by the bonds of the said Natchez, Jackson & Columbus Railroad Company for the said sum of $1,250,000, and which said indebtedness, and said bonds, are still outstanding and unpaid.

4. That in the year 1891, the Louisville, New Orleans and Texas Railway Company applied as much as $75,000 to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in the payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and which was used, by said company in constructing said railroad, and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same.

5. That the amount of all the taxes upon said railroad constructed by the Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Mississippi, and, upon the other property sold and conveyed by said company, situated in the county of Adams, State of Mississippi, to the Louisville, New Orleans and Texas Rail-

way Company, for the year 1891, in the county of Adams, State of Mississippi, have actually and in good faith been paid and applied during the year 1891, in the payment of the debts and liabilities incurred in the construction of the railroad from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company; or, in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and
53 which was used, in constructing said railroad, and paying debts incurred by said company in constructing the same; and that the amount of the taxes upon said railroad and other property, situated in the county aforesaid, conveyed by said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Co. as aforesaid, in the county of ——, State of Mississippi, in and for the year 1891, have actually and in good faith been applied to the payment of the debts incurred, or money borrowed and used in the construction of said railroad in said county of Adams, during the year 1891.

6. That the income and profits derived from the said railroad constructed from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company, and by it sold and conveyed to the Louisville, New Orleans & Texas Railway Company, as aforesaid, and the use and operation thereof, for the year 1891, or for any year since its construction, have not been sufficient to pay any dividend to either the stockholders of the Natchez, Jackson & Columbus Railroad Company, the Louisville, New Orleans and Texas Railway Company, or the Yazoo & Mississippi Valley Railroad Company, or the owners of such railroad; and, that for the year 1891, neither the profits of the L., N. O. & T. R. R. Co., nor of the Yazoo and Mississippi Valley Railroad Company, or the profits derived from the use and operation of said railroad from Natchez to Jackson, Mississippi, have either or both been sufficient to enable either of said companies to declare and pay to the stockholders thereof an annual dividend of eight per cent., or any per cent. on the capital stock of said companies, or either of them, over and above the payment of their debts and liabilities.

7. That on the 24th day of October, 1892, the Louisville, New Orleans & Texas Railway Co. was merged into, and was consolidated with the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi, and by which the Yazoo & Mississippi Valley Railroad Company became entitled to all the property, rights, privileges, powers and immunities theretofore belonging to the said Louisville, New Orleans & Texas Railway Company.

8. That he is now the third vice-president and cashier of the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi.

JAS. M. EDWARDS,
3rd V. P. and Cashier, Y. & M. V. R. R. Co.

Sworn to and subscribed before me, this 4 day of Nov. 1892, and in testimony whereof, witness my signature and official seal.

[SEAL.] H. B. BELT,
Com. for Miss.

54 THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE, NATCHEZ, MISS., *Nov.* 5, 1892.

On advice of counsel, I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R. Co., Natchez division, in the county of Adams, State of Mississippi, for the year 1891, said taxes not having been paid and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes, or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

STATE OF MISSISSIPPI, }
County of Adams. }

Personally appeared before me the undersigned Allison H. Foster, clerk of the chancery court of the county aforesaid, A. M. Cooke, president of the Natchez, Jackson & Columbus Railroad Company, with whom I am personally acquainted, and whom I know to be the president of said company, who, being first duly sworn, made oath and deposed, as follows:

1. That he is the president of the Natchez, Jackson & Columbus Railroad Company, a corporation existing under the laws of the State of Mississippi. That in the year 1892, the said railroad company applied as much as the sum of $75,000 to the payment of the debts and liabilities which said company had incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used, and which was used in constructing said railroad and paying debts incurred by said company in constructing said railroad company in constructing the same.

3. That the amount of all the taxes upon said railroad for the year 1892, in the county of Adams, State of Mississippi, have actual y and in good faith been paid and applied during the year 1892, in the payment of money borrowed, or debts incurred as aforesaid; and that the amount of the taxes upon said railroad in the county of Adams, State of Mississippi, in and for the year —, have actually and in good faith been paid and applied to the payment of the debts incurred or money borrowed in the construction of said railroad in said county of Adams, during the year 1892.

4. That the income and profits derived from the said railroad and the use and operation thereof for the year 1892, or for any year since its construction, have not been sufficient to pay any dividend
55 to its stockholders or owners; and that for the year 1892, the profits of said company, or the profits derived from the use

and operation of said railroad have not either, or both, been sufficient to enable it to declare and pay to the stockholders an annual dividend of eight per cent., or any per cent., on its capital stock, over and above the payment of its debts and liabilities.

A. M. COOKE,
Pres't N., J. & C. R. R. Co.

Sworn to and subscribed before me this 5th day of November, A. D. 1892.

[SEAL.] ALLISON H. FOSTER, *Clerk*,
By WM. A. FOSTER, *D. C.*

TAX COLLECTOR'S OFFICE, NATCHEZ, MISS., *Nov.* 5, 1892.

On advice of counsel I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R. Co., Natchez, Jackson & Columbus division, in the county of Adams, State of Mississippi, for the year 1892, said taxes not having been paid, and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

STATE OF TENNESSEE, }
County of Shelby. }

Personally appeared before me, the undersigned H. B. Belt, a commissioner for the State of Mississippi, duly appointed and qualified according to the laws thereof, and resident in Memphis, Tennessee, James M. Edwards, with whom I am personally acquainted, who, being by me first duly sworn, made oath and deposed, as follows:

1. That he was, prior to the 24th day of October, 1892, vice-president and cashier of the Louisville, New Orleans and Texas Railway Company, a corporation existing under the laws of the State of Mississippi prior to said date.

2. That on the 28th day of March, 1890, the Natchez, Jackson & Columbus Railroad Company, by deed duly executed and delivered, granted, bargained and sold, assigned, transferred and conveyed to the Louisville, New Orleans and Texas Railway Company, as it was by law authorized to do, the railroad theretofore constructed and owned by said Natchez, Jackson & Columbus Railroad Company,
56 from Natchez to Jackson, Mississippi, and also the immunity from taxation then held, enjoyed and possessed by said Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Columbus Railroad Company might be subject —, to the payment of the debts and liabilities which were incurred by the said Natchez, Jackson & Columbus Railroad Company in the construction of said railroad; or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and which was used by said company in constructing said railroad,

and in paying debts incurred by the said Natchez, Jackson & Columbus Railroad Company in constructing the same; and also all other property owned at said date by the Natchez, Jackson & Columbus Railroad Company, in the county of Adams and State of Mississippi.

3. That the sale, conveyance and transfer of the railroad running from Natchez to Jackson, Mississippi, and, also of the immunity from taxation then held and possessed by the Natchez, Jackson & Columbus Railroad Company together with the right to apply the amount of all such taxes as said Natchez, Jackson & Columbus Railroad Company was subject to, to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and which was used by said company in constructing said railroad, and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, was made by the said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company subject to an indebtedness of $1,250,000; which said sum was incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of the railroad from Natchez to Jackson, Mississippi, by said company or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used, and which was used, in constructing said railroad, paying debts incurred by said company in constructing the same, and which said indebtedness is evidenced by the bonds of said Natchez, Jackson & Columbus Railroad Company for said sum of $1,250,000, and which said indebtedness and bonds are still outstanding and unpaid.

4. That in the year of 1892 the Louisville, New Orleans and Texas Railway Company applied as much as the sum of $75,000 to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construction of its railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Rail-
57 road Company to be used and which was used by said company in constructing said railroad, and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same.

5. That the amount of all the taxes upon said railroad constructed by the Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Miss., and, upon the other property sold and conveyed by said company, situated in the county of Adams, State of Mississippi, to the Louisville, New Orleans and Texas Railway Company for the year 1892, in the county of Adams, State of Mississippi, have actually and in good faith been paid and applied during the year 1892 in the payment of the debts and liabilities incurred in the construction of the railroad from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company; or, in payment for money borrowed by said Natchez, Jackson &

Columbus Railroad Company, to be used, and which was used in constructing said railroad and paying debts incurred by said company in constructing same; and that the amount of the taxes upon said railroad and other property, situated in the county aforesaid, conveyed by the said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company as aforesaid, in the county of ——, State of Mississippi, in and for the year 1892, have actually and in good faith been applied to the payment of the debts incurred, or money borrowed and used in the construction of said railroad in said county of Adams, during the year 1892.

6. That the income and profits derived from said railroad constructed from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company, and by it sold and conveyed to the Louisville, New Orleans and Texas Railway Company, as aforesaid, and the use and operation thereof, for the year 1892, or for any year since its construction, have not been sufficient to pay any dividend to either the stockholders of the Natchez, Jackson & Columbus Railroad Company, the Louisville, New Orleans and Texas Railway Company, or the Yazoo & Mississippi Valley Railroad Company, or the owners of said railroad; and that for the year 1892, neither the profits of the L., N. O. & T. R. R. Co., nor of the Yazoo & Mississippi Valley Railroad Company or the profits derived from the use and operation of said railroad from Natchez to Jackson, Mississippi, have either both been sufficient to enable either of said companies to declare and pay to the stockholders thereof an annual dividend of 8 per cent. or any per cent., on the capital stock of said companies, or either of them, over and above the payment of their debts and liabilities.

7th. That on the 24th day of October, 1892, the Louisville,
58 New Orleans and Texas Railway Company was merged into and was consolidated with the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi, and by which the Yazoo and Mississippi Valley Railroad Company became entitled to all the property, rights, privileges, powers and immunities theretofore and then belonging to the said Louisville, New Orleans & Texas Railway Company.

8th. That he is now the third vice-president and cashier of the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi.

JAS. M. EDWARDS,
3rd Vice-President and Cashier Y. & M. V. R. R. Co.

Sworn to and subscribed before me, this 4th day of November, 1892, and in testimony whereof witness my signature and official seal.

[SEAL.] H. B. BELT,
Com. for Miss.

And afterwards on March 6th, 1893, the plea and demurrer of defendant was filed, same being in the words and figures following, to wit:

The said defendant by protestation not confessing, &c., &c., for the plea unto a part of said bill of complaint, viz: unto so much and such parts of said bill, as contain allegations and references to the taxes for the year 1891, on the properties mentioned in said bill, or seeks to bring into question the right of said defendant to collect the same or to raise any issue or issues with regard to said taxes or their legality, and especially as to so much of the prayer of said bill as may seek to restrain or enjoin defendant from proceeding to collect said taxes for the year 1891, pleads and says that on the 29th day of February, A. D. 1892, the said Louisville, New Orleans & Texas Railway Company, grantee of the said Natchez, Jackson & Columbus Railroad Company and subsequently, to wit, on the 25th day of October, 1892, consolidated into the said Yazoo & Mississippi Valley Railroad Company, exhibited its bill of complaint and filed the same in this honorable court against the defendant; setting up in said bill the alleged illegality of the identical same taxes on the same property for the same year 1891 the want of authority in defendant to collect the same, and praying that the collection of said taxes be enjoined; that this defendant filed his demurrer to said bill, and that thereupon such further and other proceedings were had in said cause which was and is numbered No. 1174 on
59 the general docket of this honorable court, that on the 22nd day of October, 1892, a final decree was rendered in this court sustaining said demurrer, dismissing said bill, and dissolving the injunction, and that at the same term of this court, the said complainant in said bill obtained an order allowing it an appeal from said final decree to the supreme court of the State of Mississippi, and that subsequently, to wit, on the 14th day of February, 1893, said cause No. 1174 was removed to the said supreme court and that said cause is now in said supreme court depending; all of which pleadings, proceedings and decree this defendant now here pleads in bar of the said bill of complaint herein so far as the same seeks to bring into question or raise any issue about or seeks relief against said taxes of 1891, and makes this said bill, demurrer and proceedings in said cause No. 1174, a part of this his plea as fully as if the same were incorporated herein, and alleges that in said last cause, No. 1174, all the rights of the parties to the present bill of complaint were fully settled as to said taxes for the year 1891 in this court. And so defendant prays the judgment of this honorable court whether he should be required to make any other or further answer to this present bill of complaint, as to said taxes for the year 1891 or the other matters herein pleaded against.

K. PALMER LANNEAU,
Sol. for Def't.

Sworn to and subscribed before me this 6th day of March, 1892.
ALLISON H. FOSTER, *Clerk.*

And as to all the rest, residue and remainder of the said bill of complaint of the complainants, other than those above answered by plea, the said defendant says he does demur thereto, and for causes of demurrer shows the following:

1. The said complainants have not in and by their said bill of complaint (as to said residue and remainder) made or stated such a case as doth or ought to entitle them to any such relief as is thereby sought and prayed against this defendant.

2. It appears by complainants' own showing, in and by their said bill of complaint, that they are not entitled to the relief prayed against this defendant.

3rd. The allegations of said bill do not show any valid or sufficient reason why said sheriff and tax collector should be restrained or enjoined from proceeding to collect said taxes (of the year 1892) mentioned and sought to be enjoined in said bill of complaint.

4. The allegations of said bill do not show that complain-
60 ants or either of them are entitled to the so-called exemption from taxation alleged to have been granted to the said Natchez, Jackson & Columbus Railroad Company.

5. The said bill of complaint shows no cause or valid reason why the said defendant sheriff and tax collector aforesaid should have been or should be required or should now be compelled to give to complainants or either of them a receipt for said taxes of 1892 for which receipt is demanded in said bill and the prayer thereof.

K. PALMER LANNEAU,
Solicitor for Defendant.

I hereby certify that I believe the above and foregoing demurrer ought to be sustained.

K. PALMER LANNEAU,
Solicitor for Defendant.

In the Circuit Court of the United States for the Southern District of Mississippi. In Equity.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
vs.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

This cause came on to be heard on the motion of defendants to discharge the restraining order heretofore granted, and to refuse the injunction as prayed for in the bill and both motions were heard together by consent, notice on both sides being waived, and the court, after hearing the pleadings, exhibits and evidence for and against, and arguments of counsel on both sides, after due consideration, finds that the complainant has shown no right to invoke the jurisdiction of this court, and further being of opinion that this court has no jurisdiction, it is therefore considered, and so ordered, adjudged and decreed, that the motion to discharge said restraining order is sustained, and said restraining order is hereby discharged; and it is further ordered that the said motion to grant an injunction is overruled and the injunction refused.

It is further ordered that the clerk of said court enter this order on the minutes of said court.

Ordered, adjudged and decreed in chambers, this February 7th, 1899.

H. C. NILES,
U. S. Judge.

Filed and entered February 8th, 1899.

L. B. MOSELEY, *Clerk.*

61 UNITED STATES OF AMERICA,
Southern District of Mississippi.

In the Circuit Court of the United States, Sitting at Jackson.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
vs.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

To the honorable the judges of the circuit court of the United States for the southern district of Mississippi, sitting at Jackson, in equity:

The above-named complainant, The Yazoo & Mississippi Valley Railroad Company, conceiving itself aggrieved by the decree made and entered on the — day of February, 1899, in the above-entitled cause, whereby the restraining order in said cause heretofore made was discharged, and whereby the motion of said complainant for a temporary injunction in this cause was refused, does hereby appeal from said order and decree, to the United States circuit court of appeals for the fifth circuit, for the reasons specified in the assignment of errors which is filed herewith, and it prays that this appeal may be allowed and that a transcript of the record, proceedings and papers upon which order was made duly authenticated, may be sent to the said United States circuit court of appeals for the fifth circuit, and meanwhile, that the appeal bond be fixed by your honors, and that said order discharging the restraining order in this cause be suspended pending said appeal.

This 8th day of February, 1899.

MAYES & HARRIS,
Sol'rs for Complainant.

Filed February 8th, 1899.

L. B. MOSELEY, *Clerk.*

UNITED STATES OF AMERICA,
Southern District of Mississippi.

In the Circuit Court of the United States, Sitting at Jackson.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
vs.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

Assignment of Errors.

62 Comes the complainant in the above-entitled cause, and for error assigned herein, says that the decree in said cause, from which an appeal is prayed is erroneous, and against the just rights of said complainant for the following reasons:

1. Because on the bill and the proofs herein made the restraining order heretofore granted should not have been discharged.

2. Because on the bill and the proofs herein made, the motion for the issuance of a temporary injunction made by complainant should have been granted, and such temporary injunction should have been ordered to issue.

Wherefore, the said complainant prays that the said decree be reversed, and that the honorable judges of the circuit court may be directed to enter a decree overruling the motion of respondents to discharge said restraining order, and further granting the motion of complainant for the issuance of a temporary injunction in accordance with the prayer of the bill.

MAYES & HARR–S,
Sol'rs for Complainant.

Filed February 8, 1899.

L. B. MOSELEY, *Clerk.*

UNITED STATES OF AMERICA,
Southern District of Mississippi.

In the Circuit Court of the United States, Sitting at Jackson.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
vs.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

Order Granting Appeal.

The complainant in this cause having prayed an appeal to the circuit court of appeals in and for the fifth circuit from the decretal order herein rendered whereby the restraining order heretofore issued is discharged and the temporary injunction prayed for in the original bill is refused, such appeal is hereby this day allowed, on the execution by the complainant herein of an appeal bond conditioned according to law in the penal sum of twelve hundred dollars, with at least two good sureties, such bond to be approved by the clerk of this court; and on the execution of such bond, said decretal order shall be superseded, pending said appeal, and said restraining order retained accordingly.

63 Ordered, adjudged and decreed this the 9th day of February, 1899.

H. C. NILES,
U. S. Judge.

Filed and entered February 9, 1899.

L. B. MOSELEY, *Clerk.*

UNITED STATES OF AMERICA,
Southern District of Mississippi.

In the Circuit Court of the United States, Sitting at Jackson.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
vs.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

Know all men by these presents: That we, the Yazoo & Mississippi Valley Railroad Company, as principal and Samuel S. Carter and John Hart as surety, are held and firmly bound unto the defendants, Wirt Adams, State revenue agent, W. S. Wissenger, F. L. Hope, F. B. Fitzgerald, R. M. Edwards, J. B. Hebron, C. H. Walton, R. W. Smith, Dan. Hebron, R. C. McCay, C. C. Coffey, J. R. Jones, J. B. Turnipseed, J. M. Sessions, J. H. Sullivan, J. B. Humphreys, S. Duncan Baker, and W. T. Ratliff, sheriffs, etc., in the full and just sum of twelve hundred dollars to be paid to the said defendants, their certain attorneys, executors, administrators or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 9th day of February, in the year of our Lord, one thousand eight hundred and ninety-nine.

Whereas, lately at a circuit court of the United States for the southern district of Mississippi, in a suit depending in said court between The Yazoo & Mississippi Valley Railroad Company, plaintiff, and the said Wirt Adams, State revenue agent, *et als.*, defendants, a decree was rendered against the said Yazoo & Mississippi Valley Railroad Company, and the said Yazoo & Mississippi Valley Railroad Company having obtained an appeal, and filed a copy thereof in the clerk's office of the said court to reverse the decree in the aforesaid suit, and a citation directed to the said defendants citing and admonishing them to be and appear at a session of the United States court of appeals for the fifth circuit to be holden in the city of New Orleans, Louisiana, in said circuit, on the 18th day of February, 1899:

Now the condition of the above obligation is such, that if the said Yazoo & Mississippi Valley Railroad Company shall prosecute
64 said appeal to effect and answer all damages and costs if it fail to make the said plea good, then the above obligation is void, else to remain in full force and virtue.

THE YAZOO & MISSISSIPPI VALLEY
RAILROAD COMPANY,
By MAYES & HARRIS, *Its Attorneys.*
SAM'L S. CARTER.
JOHN HART.

Approved:
[SEAL OF THE COURT.] L. B. MOSELEY, *Clerk.*

Filed February 9, 1899.

L. B. MOSELEY, *Clerk.*

Citation to U. S. Court of Appeals.

The United States Circuit Court of Appeals for the Fifth Circuit.

No. 561.

UNITED STATES OF AMERICA,
Fifth Judicial Circuit.

To Wirt Adams, State revenue agent in and for the State of Mississippi; and W. S. Wissenger, sheriff of De Soto county; and F. L. Hope, sheriff of Tunica county; and F. B. Fitzgerald, sheriff of Coahoma county; and R. M. Edwards, sheriff of Bolivar county; and J. B. Hebron, sheriff of Washington county; and C. H. Walton, sheriff of Sharkey county; and R. W. Smith, sheriff of Issaquena county; and Dan. B. Hebron, sheriff of Warren county; and R. C. McCay, sheriff of Claiborne county; and C. C. Coffey, sheriff of Jefferson county; and J. R. Jones, sheriff of Franklin county; and J. B. Turnipseed, sheriff of Amite county; and J. M. Sessions, sheriff of Wilkinson county; and J. H. Sullivan, sheriff of Tallahatchie county; and J. B. Humphries, sheriff of Leflore county; and S. Duncan Baker, sheriff of Adams county; and W. T. Ratliff, sheriff of Hinds county, Greeting:

You are hereby cited and admonished to be and appear at a session of the United States circuit court of appeals for the fifth circuit to be holden at the city of New Orleans, Louisiana, in said circuit, on the 18th day of February, 1899, pursuant to an
65 appeal filed in the clerk's office of the circuit court of the United States for the southern district of Mississippi, wherein The Yazoo & Mississippi Valley Railroad Company, a corporation of the State of Mississippi, a citizen of said State, and domiciled therein, and resident in said State and district, is appellant and you are the appellees, to show cause, if any there be, why the decrees rendered against the said appellant, as in said appeal and assignment of errors therewith filed, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of United States, this ninth day of February, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States of America the one hundred and twenty-third.

[Seal of the U. S. Circuit Court.]

L. B. MOSELEY, *Clerk.*

We hereby acknowledge service of the foregoing writ for all the defendants therein, this 10th day of February, A. D. 1899.

CRITZ, BECKETT & KIMBROUGH,
Solicitors for Defendants.

66 In the Circuit Court of the United States for the Southern District of Mississippi.

THE YAZOO AND MISSISSIPPI VALLEY R. R. Co.
v.
WIRT ADAMS, State Revenue Agent of the State of Mississippi, *et als.* } No. 561.

Come all of the defendants herein, by solicitors, and, entering appearance herein specially and only for the purposes of this motion, move the court to dismiss the original bill herein, and for ground assign that the sole object of said original bill was for an injunction, as therein shown, which injunction was by this court refused, and from the decree refusing said injunction an appeal was prayed and granted to the United States circuit court of appeals for the fifth circuit, which appeal was by said court of appeals dismissed for want of jurisdiction, as appears from the copy of the opinion of said court now here shown to the court.

CRITZ, BECKET & KIMBROUGH,
CALHOON & GREEN, *For Motion.*

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
v.
WIRT ADAMS, State Revenue Agent of the State of Mississippi, —— —— R. R. Co. *et al.* } No. 561.

This day came on to be heard the motion of all the defendants herein to dismiss the original bill herein, and the court having considered the same, and it appearing to the court that solicitors for the complainant were present in court on the hearing of
67 said motion, and that they made no objection to the consideration of the same upon the ground that the mandate from the United States circuit court of appeals for the fifth circuit, dismissing said appeal for want of jurisdiction, has not been filed in this court, and the court being of opinion that said motion should be sustained, it is ordered, adjudged, and decreed that said motion be, and the same is hereby, sustained, and that said original bill herein be, and the same is hereby, dismissed, and that defendants go hence without *delay*, and that complainant be taxed with the costs of this proceeding, for which let execution issue at law; to which said order of dismissal complainant objected.

Ordered, adjudged, and decreed this first day of May, A. D. 1899.

H. C. NILES, *Judge.*

68 Circuit Court of the United States, Southern District of Mississippi, at the May Term, 1899.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
v.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

Your petitioner, The Yazoo & Mississippi Valley Railroad Company, respectfully represents that there is manifest error committed,

to the injury of the petitioner, by the final decree pronounced in this cause on the first day of May, 1899, in and by which said final decree this court refused jurisdiction of this cause and dismissed the bill of the complainant finally for want of jurisdiction and pronounced judgment against the complainant for the costs of court.

Wherefore your petitioner, The Yazoo & Mississippi Valley Railroad Company, considering itself aggrieved, prays an order granting an appeal from said final decree refusing jurisdiction of this cause to the Supreme Court of the United States, as authorized by section 5 of the act of Congress of the United States approved March 3rd, 1891, and petitioner herewith files its bond in the penal sum of five hundred dollars; which bond petitioner prays to be approved by the Honorable Henry C. Niles, one of the judges of this court.

And your petitioner, as in duty bound, will ever pray.

MAYES & HARRIS,
Solicitors for Compl't.

THE YAZOO & MISSISSIPPI VALLEY RAILroad Company
v.
WIRT ADAMS, State Revenue Agent, ET ALS.
No. 561. Assignment of Errors.

69 Comes the appellant, The Yazoo & Mississippi Valley Railroad Company, in the above-entitled cause, and for error assigns as follows, to wit:

The court erred in dismissing the bill filed by the complainant herein for want of jurisdiction to entertain the same.

MAYES & HARRIS,
Solicitors for Appellant.

In the Circuit Court of the United States for the Southern District of Mississippi.

Know all men by these presents that we, the Yazoo & Mississippi Valley Railroad Company, as principal, and John Hart and Samuel S. Carter, sureties, are held and firmly bound unto Wirt Adams, State revenue agent, of Jackson, Mississippi, and the Railroad Commission of the State of Mississippi, and J. J. Evans and M. M. Evans and John D. McInnis, members of said commission, and Thomas C. Kimbrough, in the sum of five hundred dollars, to be paid to the said Wirt Adams, State revenue agent, or his successors in office and to the other obligees named; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents.

Dated this the 3rd day of May, 1899.

Whereas the above-named Yazoo & Mississippi Valley Railroad Company has prosecuted an appeal to the Supreme Court of the United States to reverse a judgment rendered in a certain cause wherein the said appellant was complainant and the said Wirt

Adams and others were defendants, numbered 561 on the
70 equity docket of said court, of the said circuit court of the United States for the southern district of Mississippi, on the 1st day of May, 1899, in favor of said Wirt Adams, State revenue agent, and others, defendants, against the said appellant:

Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute its said appeal to effect and answer all costs and damages, or if it shall fail good to make its plea, then this obligation shall be void; otherwise to remain in full force and virtue.

THE YAZOO & MISSISSIPPI VALLEY
RAILROAD COMPANY,
By EDWARD MAYES, *Attorney.*
JOHN HART.
SAMUEL S. CARTER.

Approved May 3, 1899.

H. C. NILES, *Judge.*

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
v.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

Upon consideration of the petition for appeal to the Supreme Court of the United States filed herein by the Yazoo & Mississippi Valley Railroad Company, it is ordered that said appeal be granted, the bond therefor in the penalty of five hundred dollars having been executed and being approved by the court. This appeal is granted solely upon the question of jurisdiction, this court having refused to assume jurisdiction in this cause. Unless counsel shall agree, by stipulation filed with the clerk of this court, in respect to the portions of the record to be transcribed and filed in the said United States Supreme Court under said appeal as prayed and granted, the appellant has
leave to present the record to the court on Saturday, the 6th
71 day of May, 1899, for the determination of what portion of the record shall be certified to said Supreme Court of the United States.

H. C. NILES, *Judge.*

UNITED STATES OF AMERICA, *ss:*

To Wirt Adams, State revenue agent, and to the Railroad Commission of the State of Mississippi, and J. J. Evans and M. M. Evans and John D. McInnis, members of said commission, and Thomas C. Kimbrough, clerk, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to an appeal in equity cause numbered 561, taken and allowed from the circuit court of the United States in and for the southern district of Mississippi, at Jackson, to the Supreme Court of the United States, at Washington, in the District of Columbia, wherein The Yazoo & Mississippi Valley

Railroad Company is the appellant and you are the appellees, to show cause, if any there be, why the judgment rendered against the said appellant, as in its petition for appeal is mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Henry C. Niles, one of the judges of the said circuit court of the United States, this the 3rd day of May, A. D. one thousand eight hundred and ninety-nine.

H. C. NILES,
District Judge of the United States in and for the Southern District of Mississippi.

72 YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY, Appellant,
v.
WIRT ADAMS, State Revenue Agent, ET ALS., Appellees. } No. 561.

In the above-entitled cause, on the appeal of the Yazoo & Mississippi Valley Railroad Company to the Supreme Court of the United States, we do hereby waive issuance and service of citation as to all of the appellees, and agree to enter and do hereby enter appearance for them in the said Supreme Court, but said appearance may be either general or on a motion to dismiss.

R. C. BECKET,
Counsel of Record.

73 UNITED STATES OF AMERICA,
Southern District of Mississippi.

In the Circuit Court of the United States at Jackson.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
v.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

I, Henry C. Niles, judge, presiding over said court at the May term, 1899, do hereby certify that in the course of the proceedings in said cause before me the following questions arose pertaining to the jurisdiction of said court in said cause, and were in issue between the parties litigant and were discussed by counsel and considered by the court.

In the original bill filed herein the complainant alleged that it is a corporation duly organized and existing under the laws of the State of Mississippi, and that it was a tax-payer of the said State and of the district aforesaid.

It further alleged that all of the defendants to the bill were citizens and residents of the State of Mississippi and of this judicial circuit and of the said district.

The said bill further alleged that the Natchez, Jackson & Columbus Railroad Company was incorporated by the said State of Mississippi in the year 1870 for the purpose of building a railroad within the State of Mississippi, and that by this contract of incorporation, which was set forth in said bill, it was provided that the

taxes to which the said company should be subject for a period of thirty years from the date of its charter were appropriated and set apart and should be applied to the payment of the construction liabilities of said railroad, and that it was made the duty of the various tax collectors of the various counties in which said railroad should be liable to pay taxes, on the presentation in each
74 successive year of an affidavit made by the president or cashier of said company that during said year the said company had made payments on account of its construction debt to an amount equal to the taxes assessed, to deliver to the said company receipts for said taxes so assessed in full, which receipts so delivered should be a full acquittance and discharge of all taxes, State, county, and municipal, to which said company and its property should be subjected.

The said bill further set forth that in the year 1890 the legislature of the State of Mississippi authorized the said railroad company to sell all of its railroad property situated in this State to the Louisville, New Orleans & Texas Railway Company, together with all franchises, rights, powers, privileges, and immunities unto said railroad company appertaining and belonging.

The bill further alleged that the said sale was accordingly made by deed of conveyance executed in the month of March, 1890, whereby the said Louisville, New Orleans & Texas Railway Company became vested with said property and with the said rights, privileges, and immunities set forth.

The said bill further alleged that by an act of the legislature of the State of Mississippi approved March 3, 1882, and an act amendatory thereto, passed in the month of March, 1884, the said Louisville, New Orleans & Texas Railway Company was authorized to be formed, and that the same was in the year 1884 actually so formed, and that section 5 of the said act of March 3, 1883, which was the charter of the said Louisville, New Orleans & Texas Railway Company, provided exactly as the aforesaid charter of the Natchez & Jackson Railroad Company as follows: That all taxes to which said company should be subject for a period of twenty-five years from the date of the said charter were appropriated and set apart and should be applied to the payment of the construction liabilities of the
75 said railroad, and that it was made the duty of the various tax collectors of the various counties in which said railroad should be liable for taxes on the presentation in each successive year of an affidavit made by the president or cashier of the company that during the said year the said company had made payments on account of its construction debt to an amount equal to the taxes assessed, to deliver to the said company receipts for said taxes so assessed in full acquittance and discharge of all taxes, State, county, or municipal, to which said company and its property should be subject.

The said bill further alleged that on the 24th day of October, 1892, the said Louisville, New Orleans & Texas Railway Company and the defendant, The Yazoo & Mississippi Valley Railroad Company, by virtue of powers conferred upon them by their respective charters, consolidated with each other; and that by such consoli-

dation the said Louisville, New Orleans & Texas Railway Company was merged in the said Yazoo & Mississippi Valley Railroad Company, and its existence terminated while the existence of the said last-named company continued unimpaired and unbroken; and that by virtue of such consolidation the said property that had been the property of the Natchez, Jackson & Columbus Railroad Company became the property of said Yazoo & Mississippi Valley Railroad Company, with all the rights, privileges, and immunities appertaining thereto as hereinbefore stated, and also the railroad property that had been constructed by the said Louisville, New Orleans & Texas Railway Company, under its own proper charter, became the property of the said Yazoo & Mississippi Valley Railroad Company, with all the rights, privileges, and immunities pertaining thereto.

The said bill further alleged that the said right was embodied in said charter of the Natchez & Jackson Railroad Company by virtue of the sale of 1890, and the consolidation of 1892, as aforesaid,
76 transferred to and acquired by the complainant, and the right as embodied in and conferred by the charter of the said Louisville, New Orleans & Texas Railroad Company, so transferred to and acquired by complainant by and through the consolidation hereinbefore set forth, were contracts of appropriation to endure for the period stipulated therein, which were secured and guaranteed by the provisions of the Constitution of the United States, section 10, article I.

The bill further alleged that in the year 1898 the railroad commission of the State of Mississippi, who are by law made assessors of railway property for taxation and who are defendants to said bill, and Wirt Adams, State revenue agent of the said State of Mississippi, also made defendant, inaugurated a proceeding, under the statutes of the State of Mississippi passed in the year 1892 and in the year 1894, and under the said constitution of the State of Mississippi, section 180, adopted Nov. 1st, 1890, to assess taxes against the property aforesaid of the said Natchez, Jackson & Columbus Railroad Company, then being property, as aforesaid, of the Yazoo & Mississippi Valley Railroad Company, and also to assess taxes against the property, as aforesaid, that was the property of the Louisville, New Orleans & Texas Railway Company, constructed under its charter, as aforesaid, then being property, as aforesaid, of the Yazoo & Mississippi Valley Railroad Company, and to collect the same by process of law, in currency, by seizures under distress warrants and by suits thereupon brought by the said State revenue agent, and that said assessments had been made, amounting to about $140,000, and that such assessments and such seizures and suits would cause clouds upon the title of the complainant to said railway property, and would cause multiplicity of suits, and that there was no adequate remedy at law for the injuries to be suffered therefrom, and also that the collection of said taxes in currency and regard-
77 less of the rights of the complainant under its contract, as stated, would impair the obligations of the contracts of the

said complainant and cast clouds upon the titles of the properties of which it was the owner as aforesaid.

The bill further alleges that the proceeding of the said State revenue agent and the said railroad commission complained of in said bill was an attempt to enforce against the said charter rights of the said railroad, then held and enjoyed by the complainant, as hereinbefore set forth, and against the charter rights of the said Louisville, New Orleans & Texas Railway Company as to the said railroad constructed by it under its charter, then held and enjoyed by the complainant, as hereinbefore set forth, subsequent legislation of the State of Mississippi, to wit, the said statutes of 1892 and 1894 and the said section 180 of the constitution of 1890, and to impair the obligation of the contracts in said bill set forth by such enforcement of such subsequent legislation and said subsequent provision in said constitution; all in violation of section 10, article I, of the Constitution of the United States.

And also the said bill alleged that the attempt of the said railroad commission and the said revenue agent was to fasten upon the said railroad a paramount lien under the subsequently enacted statutes of said State which would displace the existing liens and mortgages upon said railroad and constitute a paramount lien thereupon as for unpaid taxes, and their proceedings to seize and sell the railroad thereunder constitute an effort to deprive the complainant of its property and its mortgage lien which secured the bonds belonging to the complainant without due process of law, in violation of the fourteenth amendment of the Constitution of the United States.

Upon said bill of complaint the undersigned, Henry C. Niles, judge, etc., did, on the 17th day of December, 1898, order the
78 issuance of a restraining order, which issued accordingly, and on the 17th day of January, 1899, the defendants, the State revenue agent and the railroad commission and their clerk, moved the court to discharge the said restraining order on the ground, amongst others, that the court had no jurisdiction to issue the same or to entertain the cause.

And at the same time the said complainants moved the court to issue a temporary injunction, as prayed in the bill.

Whereupon, on the 8th day *day* of February, 1899, the undersigned, as judge aforesaid, in vacation, made a decretal order discharging said restraining order and refused to grant a temporary injunction prayed for.

On the first day of May, 1899, being the first day of the May term, 1899, of the said circuit court, the said cause was finally dismissed by order of the court on the motion of said defendants, Wirt Adams, State revenue agent, and the said railroad commission and their said clerk; to which dismissal the complainant excepted.

Now, therefore, it is certified that the question of the jurisdiction of this court was in issue in said cause upon the ground hereinbefore stated, namely:

1. That the complainant by its original bill showed no jurisdiction in this court because of the subject-matter stated, inasmuch as the bill set forth no proper Federal question.

2. That there was no jurisdiction in this matter, because the bill was a suit against the State of Mississippi and in violation of the eleventh amendment to the Constitution of the United States.

The court having dismissed the bill on the ground of want of jurisdiction, the foregoing two questions, arising upon the
79 pleadings, the process, and the evidence, are hereby certified to the Supreme Court of the United States for its decision, in conformity with the fifth section of the act of Congress of the year 1891.

Certified to by me this the — day of May, 1899, being a day of the current May term, 1899, of the said circuit court of the United States.

H. C. NILES, *Judge*.

80 UNITED STATES OF AMERICA,
Southern District of Mississippi.

In the Circuit Court of the United States, at the May Term, 1899.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
v.
WIRT ADAMS, State Revenue Agent, ET ALS. } No. 561.

In this cause, the parties not having filed in this court a written agreement in respect to the parts of the record to be certified to the Supreme Court of the United States, as provided for in the decree of this court dated May 3rd, 1899, it is therefore considered by the court that the portions of the record necessary to be certified to the Supreme Court in order to present properly the questions of jurisdiction certified to said court are as follows:

1. The caption of the minutes of this court.
2. Bill of complaint.
3. Contract between Natchez, Jackson & Columbus R. R. Co. and Louisville, New Orleans & Texas R. R. Co.
4. Fiat for injunction.
5. Bond for injunction.
6. Temporary restraining order.
7. Answer of sheriff of Wilkinson county.
8. Motion of revenue agent to quash restraining order.
9. Motion of complainant for injunction.
10. Agreement of counsel as to transcript and other matters.
11. Copy of act incorporating Miss. Valley Company.
12. Copy of bill of complaint of Mississippi Mills *v.* Cook, tax collector.
13. Copy of record from chancery court of Adams county in case of Natchez, Jackson & Columbus R. R. Co. *et al. v.* James W.
81 Lambert, sheriff and tax collector of Adams county.
14. Decree dissolving restraining order and refusing injunction.
15. Petition for appeal to circuit court of appeals.
16. Assignment of errors.
17. Order granting appeal to circuit court of appeals.

18. Appeal bond on appeal to circuit court of appeals.
19. Citation on appeal to circuit court of appeals.
20. Motion to dismiss bill.
21. Order dismissing bill.
22. Petition for appeal to Supreme Court.
23. Assignment of errors.
24. Appeal bond.
25. Order granting appeal.
26. Citation.
27. Agreement waiving certificate of citation.
28. Certificate as to question of jurisdiction.
29. This order, stating parts of record to be certified.

Ordered, accordingly, this the 16th day of May, 1899, being a day of the regular May term, 1899, of this court.

H. C. NILES, *Judge.*

[Endorsed:] 561. Yazoo & Miss. Valley R. R. Co. *v.* Wirt Adams, State revenue agent, *et als.* Order as to record. E. O. 7/241. Filed & ent. May 16, '99. L. B. Moseley, cl'k.

82 *Clerk's Certificate.*

UNITED STATES OF AMERICA,
Southern District of Mississippi.

I, L. B. Moseley, clerk of the circuit court of the United States for the southern district of Mississippi, for the fifth circuit, sitting at Jackson, do hereby certify that the foregoing writing-, constituting eighty-one (81) pages, annexed to this certificate are full and true and correct copies of the originals in the case of The Yazoo & Mississippi Valley Railroad Company *v.* Wirt Adams, State revenue agent, *et als.* as the same appear on file and are of record in my office, and that they do constitute a true and perfect copy of the record in cause number 561, on the equity docket in said court, and of the assignment of errors and of all proceedings therein.

Seal U. S. Circuit Court, 5th Circuit, Southern District of Mississippi.

In witness whereof I have hereunto set my hand and the seal of this court this the seventeenth day of May, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States one hundred and twenty-three.

L. B. MOSELEY, *Clerk.*

Endorsed on cover: File No., 17,434. S. Mississippi C. C. U. S. Term No., 320. The Yazoo and Mississippi Valley Railroad Company, appellant, *vs.* Wirt Adams, State revenue agent, & The Railroad Commission of the State of Mississippi *et al.* Filed June 2nd, 1899.